

I. The case is set for trial before the Jury.

**** THE TRIAL DATE CANNOT BE PASSED BY A RULE 11 AGREEMENT OF THE PARTIES. IT CAN ONLY BE PASSED BY A JOINT CONTINUANCE OF ALL PARTIES THAT IS APPROVED AND AN ORDER SIGNED BY THE JUDGE.****

J. Deadline for Designation of Experts and TRCP 194.2 (f) information are pursuant to the Texas Rules Of Civil Procedure.

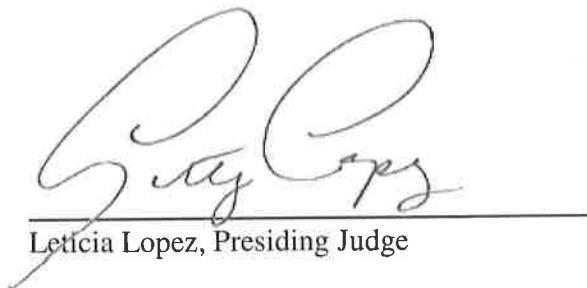
Unless otherwise the subject of a Rule 11 agreement.

K. Any Daubert/Robinson motion, challenge or objection shall be filed no later than **8:30 a.m.** on **October 15, 2015**, the day of Final Pre-Trial.

L. At the commencement of trial, each party should present their proposed charge of the court on computer disc, formatted on WordPerfect and/or Microsoft Word, to the court coordinator.

At the time of this order and by written agreement of the parties in compliance with T.R.C.P. 11, we have no conflict in our schedules.

Signed this 9/25/2014.



The image shows a handwritten signature in black ink, which appears to read "Leticia Lopez". Below the signature, the name "Leticia Lopez, Presiding Judge" is printed in a smaller, standard font.

cc: Court's File

Jesus Ramirez
email: jramirez@rg-legal.com

Stephanie O'Rourke
email: sorourke@cbylaw.com

David P. Benjamin
email: dbenjamin@benlawsa.com

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

IN THE DISTRICT COURT

vs.

TEXAS DESCN, L.P., DESCN 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

HIDALGO COUNTY, TEXAS

389th JUDICIAL DISTRICT

**PLAINTIFF, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S
CERTIFICATE OF WRITTEN DISCOVERY**

I certify that on the 11th day of September, 2014, I served the following discovery instruments on opposing counsel of record by via certified mail, return receipt requested, pursuant to the Texas Rules of Civil Procedure:

1. Plaintiff Pharr San Juan Alamo Independent School District's Request for Disclosure to Defendant Texas Descon, L.P.;
2. Plaintiff Pharr San Juan Alamo Independent School District's Request for Disclosure to Defendant Descon 4S, L.L.C.; and
3. Plaintiff Pharr San Juan Alamo Independent School District's Request for Disclosure to Defendant ERO International, L.L.P. D/B/A ERO Architects.

Respectfully submitted,

THE J. RAMIREZ LAW FIRM
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Phone: (956) 502-5424
Fax: (956) 502-5007

By: Jesús Ramirez
JESUS RAMIREZ
SBN 16501950
ROBERT SCHELL
SBN 24007992

ATTORNEYS FOR DEFENDANT
PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, Robert Schell, certify that on the 11th day of September, 2014, a true and correct copy of the foregoing Plaintiff Pharr San Juan Alamo Independent School District's Certificate of Written Discovery was served via certified U.S. Mail, return receipt requested on the following counsel of record:

Via Certified Mail,**Return Receipt Requested No. 7013 3020 0001 1808 4952****and Email: dbenjamin@benlawsa.com**

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

Via Certified Mail,**Return Receipt Requested No. 7013 3020 0001 1808 4969****and Email: sorourke@cbylaw.com**

Stephanie O'Rourke
COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230



ROBERT SCHELL

CAUSE NO. C-5149-14-HPHARR - SAN JUAN - ALAMO
INDEPENDENT SCHOOL DISTRICT

VS.

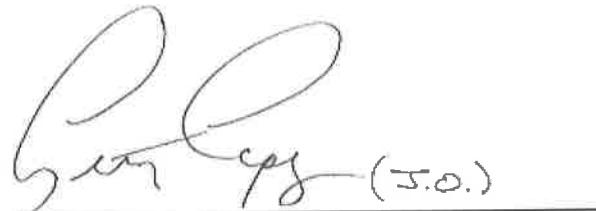
TEXAS DESCON, L.P., DESCON 4S,
L.L.C. AND ERO INTERNATIONAL,
L.L.P. DBA ERO ARCHITECTS§ IN THE 389TH DISTRICT COURT
§
§ OF
§ HIDALGO COUNTY, TEXAS

**ORDER SETTING
TELEPHONIC DOCKET CONTROL CONFERENCE**

On this the 4th day of September, 2014, came to be considered the above entitled and referenced matter.

It is ordered by the Court that a Telephonic Docket Control Conference is hereby set for the 23rd day of September, 2014, at 3:00 p.m. Conference call shall be initiated by Plaintiff and have all parties on line before calling court. If no one calls in for the Docket Control Conference, the Court will schedule the case for trial as per the Court's availability.

SIGNED this 9/4/2014.



(S.O.)

LETTY LOPEZ
Judge Presiding
389th District Court

cc: Jesus Ramirez
email: jramirez@rg-legal.com

Stephanie O'Rourke
email: sorourke@cbylaw.com

David P. Benjamin
email: dbenjamin@benlawsa.com

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

389th JUDICIAL DISTRICT

**PLAINTIFF, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S
CERTIFICATE OF WRITTEN DISCOVERY**

I certify that on the 14th day of August, 2014, I served the following discovery instruments on opposing counsels of record by via certified mail, return receipt requested, pursuant to the Texas Rules of Civil Procedure:

Via Certified Mail,

Return Receipt Requested No. 7013 3020 0001 1808 4846

And Email: sorourke@cbylaw.com

Stephanie O'Rourke

COKINOS, BOSIEN & YOUNG

10999 IH-10 West, Suite 800

San Antonio, Texas 78230

Via Certified Mail,

Return Receipt Requested No. 7013 3020 0001 1808 4853

And Email: dbenjamin@benlawsa.com

David P. Benjamin

BENJAMIN, VANA, MARTINEZ & BIGGS, LLP

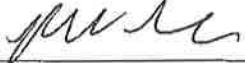
2161 NW Military Highway, Suite 111

San Antonio, Texas 78213

Respectfully submitted,

THE J. RAMIREZ LAW FIRM

Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Phone: (956) 502-5424
Fax: (956) 502-5007

By: 
Jesus Ramirez

JESUS RAMIREZ
SBN 16501950
ROBERT SCHELL
SBN 24007992
ATTORNEYS FOR PLAINTIFF
PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, Robert Schell, certify that on the 14th day of August, 2014, a true and correct copy of the foregoing Plaintiff Pharr San Juan Alamo Independent School District's Certificate of Written Discovery was served via certified U.S. Mail, return receipt requested on the following counsels of record:



ROBERT SCHELL

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
 INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
 L.L.C. and ERO INTERNATIONAL,
 L.L.P. d/b/a ERO ARCHITECTS
Defendants

§ IN THE DISTRICT COURT
 §
 § HIDALGO COUNTY, TEXAS
 §
 § 389th JUDICIAL DISTRICT
 §

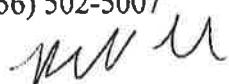
**PLAINTIFF, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S
 CERTIFICATE OF WRITTEN DISCOVERY**

I certify that on the 14th day of August, 2014, I served the following discovery instruments on opposing counsels of record by via certified mail, return receipt requested, pursuant to the Texas Rules of Civil Procedure:

1. PLAINTIFF'S RESPONSES TO DEFENDANT'S INTERROGATORIES AND REQUEST FOR PRODUCTION TO PLAINTIFF; and
2. PLAINTIFF'S RESPONSES TO REQUEST FOR DISCLOSURE FROM DEFENDANT ERO INTERNATIONAL, LLP, d/b/a ERO ARCHITECTS

Respectfully submitted,

THE J. RAMIREZ LAW FIRM
 Attorneys at Law
 Ebony Park, Suite B
 700 North Veterans Boulevard
 San Juan, Texas 78589
 Phone: (956) 502-5424
 Fax: (956) 502-5007

By: 
 JESUS RAMIREZ
 SBN 16501950
 ROBERT SCHELL
 SBN 24007992
 ATTORNEYS FOR PLAINTIFF
 PHARR SAN JUAN ALAMO
 INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, Robert Schell, certify that on the 14th day of August, 2014, a true and correct copy of the foregoing Plaintiff Pharr San Juan Alamo Independent School District's Certificate of Written Discovery was served via certified U.S. Mail, return receipt requested on the following counsels of record:

Via Certified Mail,

Return Receipt Requested No. 7013 3020 0001 1808 3856

And Email: dbenjamin@benlawsa.com

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

Via Certified Mail,

Return Receipt Requested No. 7013 3020 0001 1808 3863

And Email: sorourke@cbylaw.com

Stephanie O'Rourke
COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230



ROBERT SCHELL

THE J. RAMIREZ LAW FIRM

*Attorneys at Law*Ebony Park, Suite B
700 N. Veterans Boulevard
San Juan, Texas 78589

Phone: (956) 502-5424 Fax: (956) 502-5007

Writer's e-mail address: rschell@rg-legal.com

August 8, 2014

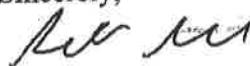
Via Email: SORourke@cby.comMs. Stephanie O'Rourke
10999 IH-10 West, Suite 800
San Antonio, Texas 78230Re: Cause No. C-5149-14-H; *Pharr San Juan Alamo Independent School District v. Texas Descon, L.P. Descon 4S, L.L.C. and ERO International, L.L.P. d/b/a ERO Architects*, in the 389th Judicial District Court, Hidalgo County, Texas

Dear Ms. O'Rourke:

Pursuant to Rule 11 of the Texas Rules of Civil Procedure, this letter is to confirm that an agreement has been reached today to extend Plaintiff Pharr San Juan Alamo I.S.D.'s deadline to respond to Defendant Descon 4S, LLC's Request for Disclosure to Plaintiff and Defendant Texas Descon, L.P.'s Request for Disclosure to Plaintiff. The deadline will be extended to Thursday, August 14, 2014.

If this accurately reflects the agreement, please affix your signature below and return to me so that I may file this Rule 11 Agreement with the Court.

Sincerely,



ROBERT SCHELL

Date:

8-8-14

Attorney:

S. O'Rourke signed by permission


CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO § IN THE DISTRICT COURT
INDEPENDENT SCHOOL DISTRICT §
Plaintiff §
VS. § 389TH JUDICIAL DISTRICT
TEXAS DESCN, L.P., DESCN 4S, §
L.L.C. and ERO INTERNATIONAL, L.L.P. §
D/BA ERO ARCHITECTS §
Plaintiff § HIDALGO COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER AND SPECIAL EXCEPTIONS**TO THE HONORABLE JUDGE OF SAID COURT:**

Now comes ERO International, L.L.P. d/b/a ERO Architects ("ERO"), a Defendant in the above-styled and numbered cause, and files this Original Answer to Plaintiff's Original Petition and Special Exceptions, and would respectfully show unto the Court the following:

I. ANSWER

a. Defendant denies each and every allegation made by Plaintiff and demands strict proof of such allegations.

b. Defendant specifically asserts that section of 1.3.7.4 within the contract executed on or about December 18, 2008, provided a waiver of damages provision in its contract. Under such provision, Plaintiff waived any right of recovery to the extent it had insurance applicable to the alleged damages.

c. Defendant denies that Plaintiff has complied with the requirements of Tex. Civ. Prac. Rem. Code §38.002(2) in that Plaintiff has failed to properly present its claims to Defendant.

d. Defendant further contends that it is entitled to a determination of the percentage of responsibility attributable to Plaintiff and each Defendant in this case, and that the jury should be instructed accordingly.

e. Defendant would show that it is entitled to a credit or offset equal to the amount of any and all sums which the Plaintiff has received, or may hereafter receive, by way of settlement with any other person or party. Alternatively, pursuant to Rule 48 of the Texas Rules of Civil Procedure, Defendant contends that it is entitled to a proportionate reduction of any damages found against it based upon the percentage of negligence or other liability attributable to any settling tort-feasor.

f. Defendant contends that in the unlikely event that this Defendant is found liable to Plaintiff herein, then this Defendant would show the Court that it is entitled to recover all or a proportionate part of all sums adjudged against it from the Co-Defendants and in proportion to the percentage of fault, if any, attributable to all of the parties herein.

II. NONWAIVER OF MOTION TO DISMISS

Defendant reserves and does not waive its right to file a Motion to Dismiss pursuant to Tex. Civ. Prac. and Rem. Code §150.001 et. seq.

III. SPECIAL EXCEPTIONS

a. Defendant specially excepts to paragraph V. of Plaintiff's Petition on file with the Court. This paragraph asserts a cause of action for breach of contract. Yet the provision wholly fails to identify the applicable contract, the applicable provision breached or any factual basis for the alleged breach. The failure to provide such information denies Defendant the reasonable notice of the basis for the claim and the Defendant cannot adequately prepare and frame defenses or discovery.

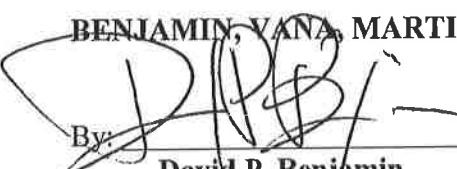
b. Defendant also specially excepts to paragraph XII.1. wherein Plaintiff seeks an unspecified amount of damages. In accordance with Tex. R. Civ. Proc. Rule 47, Plaintiff should be compelled to identify the maximum amount of damages sought.

WHEREFORE, PREMISES CONSIDERED, ERO International, L.L.P. d/b/a ERO Architects prays that the Special Exceptions be granted and that these provisions of the Petition be stricken subject to Plaintiff re-pleading in a manner responsive to the Special Exceptions within ten days and upon final hearing of the case, that Plaintiff takes nothing, and that ERO International, L.L.P. d/b/a ERO Architects recover costs and such other relief, at law and in equity, to which ERO International, L.L.P. d/b/a ERO Architects may show itself justly entitled.

Respectfully submitted,

BENJAMIN, VANA, MARTINEZ & BIGGS, LLP

By:


David P. Benjamin
State Bar No. 02134375

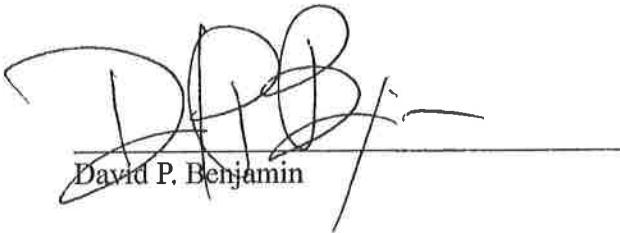
2161 NW Military Highway, Suite 111
San Antonio, TX 78213
Telephone: (210) 881-0667
Facsimile: (210) 881-0668
E-Mail: dbenjamin@benlawsa.com
**COUNSEL FOR DEFENDANT,
ERO INTERNATIONAL, L.L.P.
D/B/A ERO ARCHITECTS**

CERTIFICATE OF SERVICE

This is to certify that a true, full and correct copy of the above and foregoing has, this 20th day of June 2014, been delivered to:

Jesus Ramirez
Robert Schell
The J. Ramirez Law Firm
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589

Brian D. Metcalf
Cokinos, Bosien & Young
1099 IH 10 West, Suite 800
San Antonio, Texas 78230



David P. Benjamin

CAUSE NUMBER C-5149-14-H

PHARR SAN JUAN ALAMO, INDEPENDENT SCHOOL DISTRICT, PLAINTIFF,	§	IN THE DISTRICT COURT
VS.	§	389TH JUDICIAL DISTRICT
TEXAS DESCON, L.P., DESCON 4S, LLC AND ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS, DEFENDANT.	§	HIDALGO COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANT, DESCON 4S, LLC

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes DESCON 4S, LLC, Defendant herein, and file this, its Original Answer to Plaintiff's Original Petition, and would show the Court as follows:

I.

Defendant, DESCON 4S, LLC, generally denies the allegations contained within Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the evidence, as provided by Rule 92, Texas Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Defendant DESCON4S, LLC, prays that upon final trial the Court will enter a take-nothing judgment against Plaintiff and in favor of Defendant, and for such other and further relief to which it may be justly entitled.

Respectfully submitted,

COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230
210-293-8700
210-293-8733 (Fax Number)
sorourke@cbylaw.com

By


Stephanie O'Rourke
State Bar No. 15310800

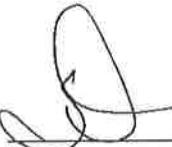
ATTORNEYS FOR DEFENDANT DESCN 4S, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing *Original Answer of Defendant, Descon 4S, LLC* has been sent via fax on this the 16th day of June 2014, to:

ATTORNEYS FOR PLAINTIFF

Jesus Ramirez
The J. Ramirez Law Firm
Ebony Park, Suite B
700 North Veterans Blvd.
San Juan, Texas 78589
Fax 956-502-5007
jramirez@rg-legal.com


STEPHANIE O'ROURKE

CAUSE NUMBER C-5149-14-H

PHARR SAN JUAN ALAMO, INDEPENDENT SCHOOL DISTRICT, PLAINTIFF,	§	IN THE DISTRICT COURT
VS.	§	389TH JUDICIAL DISTRICT
TEXAS DESCON, L.P., DESCON 4S, LLC AND ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS, DEFENDANT.	§ § § §	HIDALGO COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANT, TEXAS DESCON, L.P.

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes TEXAS DESCON, L.P., Defendant herein, and file this, its Original Answer to Plaintiff's Original Petition, and would show the Court as follows:

I.

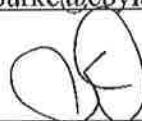
Defendant, TEXAS DESCON, L.P., generally denies the allegations contained within Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the evidence, as provided by Rule 92, Texas Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Defendant TEXAS DESCON, L.P., prays that upon final trial the Court will enter a take-nothing judgment against Plaintiff and in favor of Defendant, and for such other and further relief to which it may be justly entitled.

Respectfully submitted,

COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230
210-293-8700
210-293-8733 (Fax Number)
sorourke@cbylaw.com

By



Stephanie O'Rourke
State Bar No. 15310800

ATTORNEYS FOR DEFENDANT TEXAS DESCON, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing *Original Answer of Defendant, Texas Descon, L.P.* has been sent via fax on this the 16th day of June 2014, to:

ATTORNEYS FOR PLAINTIFF

Jesus Ramirez
The J. Ramirez Law Firm
Ebony Park, Suite B
700 North Veterans Blvd.
San Juan, Texas 78589
Fax 956-502-5007
jramirez@rg-legal.com



STEPHANIE O'ROURKE

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

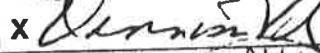
TEXAS DESCON, L.P.
ATTN: MICHAEL D. SMITH
5801 N. 10TH STREET SUITE 500
MCALLEN, TX 78504

05149-1244 (CTT.)
2. Article Number
(Transfer from service label)

PS Form 3811, July 2013

COMPLETE THIS SECTION ON DELIVERY

A. Signature



Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: 2014

3. Service Type

<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Priority Mail Express™
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

7014 0510 0001 4918 5969

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box*

FILED

At _____ O'CLOCK _____ M

Hidalgo County
District Clerk JUN - 5 2014
P.O. Box 87
Edinburg, TX 78540
D.
By _____ Dec _____



C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

THE STATE TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

TEXAS DESCON, L.P.
BY SERVING REGISTERED AGENT: MICHAEL D. SMITH
5801 N. 10TH STREET, SUITE 500
MCALLEN, TEXAS 78504

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10:00 o'clock a.m on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable 389th District Court of Hidalgo County, Texas at the Courthouse, 100 North Closner, Edinburg, Texas 78539.

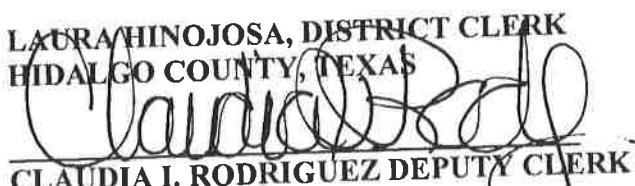
Said Petition was filed on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being, **C-5149-14-H, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C. AND ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by Attorney JESUS RAMIREZ,
700 N. VETERANS BLVD., EBONY PARK, SUITE B SAN JUAN, TX 78589.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 29th day of May, 2014.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS

CLAUDIA I. RODRIGUEZ DEPUTY CLERK

CERTIFIED MAIL 7014 0510 0001 4918 5969

**CERTIFICATE OF RETURN
UNDER RULES 103 T.R.C.P.**

This is to certify that on this the 29th day of May, 2014 I, Claudia I. Rodriguez, Deputy Clerk of the 389th District Court of Hidalgo County, Texas mailed to the defendant in Cause Number C-5149-14-H, Pharr San Juan Alamo Independent School District VS. Texas Descon, L.P., Descon 4S, L.L.C., ERO International, L.L.P. d/b/a ERO Architects a copy of the citation along with a copy of the petition by certified mail return receipt requested. Return receipt was returned on the _____ day of _____, 201____ (or unserved for the reason on the certificate return) _____.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Edinburg, Texas on this the 29th day of May, 2014.

**LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS**

CLAUDIA I. RODRIGUEZ, DEPUTY CLERK

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____ and the address is _____
I declare under penalty of perjury that the foregoing is true."

EXECUTED in _____ County, State of _____
20_____.

Declarant"

If Certified by the Supreme Court of Texas:
Date of Expiration / SCH Number

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ _____
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$ _____	
Postmark Here	
Sent To: TEXAS DESCON, L.P. ATTN: MICHAEL D. SMITH Street, A or P.O.B. 5801 N. 10TH STREET SUITE 500 City, Sta. MCALLEN, TX 78504	
PS Form 3800, August 2006 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DESCON 4S, L.L.C.
ATTN: MICHAEL D. SMITH
5801 N. 10TH STREET, SUITE 500
MCALLEN, TX 78504

C-5149-14-H (CIT.)

2. Article Number
(Transfer from service label)

7014 0510 0001 4918 5945

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X

Dennie K

Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

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 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

PS Form 3811, July 2013

Domestic Return Receipt

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FILED

AT _____ M

JUN - 5 2014

Hidalgo County
District Clerk
P.O. Box 87
Edinburg, TX 78540

Land + Judicial Clerk
Hidalgo County, Hidalgo County

K

y

By _____ Deputy



C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

THE STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

**DESCON 4S, L.L.C.
BY SERVING REGISTERED AGENT: MICHAEL D. SMITH
5801 N. 10TH STREET, SUITE 500
MCALLEN, TEXAS 78504**

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10:00 o'clock a.m on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable 389th District Court of Hidalgo County, Texas at the Courthouse, 100 North Closner, Edinburg, Texas 78539.

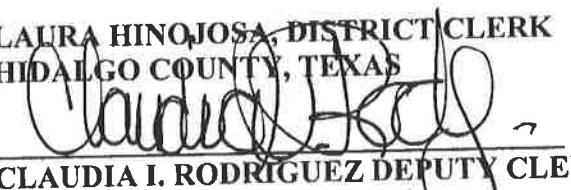
Said Petition was filed on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being, **C-5149-14-H, C-5149-14-H, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCN, L.P., DESCN 4S, L.L.C. AND ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by Attorney JESUS RAMIREZ,
700 N. VETERANS BLVD., EBONY PARK, SUITE B SAN JUAN, TX 78589.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 29th day of May, 2014.

Laura Hinojosa, DISTRICT CLERK
HIDALGO COUNTY, TEXAS

CLAUDIA I. RODRIGUEZ DEPUTY CLERK

CERTIFIED MAIL 7014 0510 0001 4918 5945

**CERTIFICATE OF RETURN
UNDER RULES 103 T.R.C.P.**

This is to certify that on this the 29th day of May, 2014 I, Claudia I. Rodriguez, Deputy Clerk of the 389th District Court of Hidalgo County, Texas mailed to the defendant in Cause Number C-5149-14-H, Pharr San Juan Alamo Independent School District VS. Texas Descon, L.P., Descon 4S, L.L.C., ERO International, L.L.P. d/b/a ERO Architects a copy of the citation along with a copy of the petition by certified mail return receipt requested. Return receipt was returned on the _____ day of _____, 201____ (or unserved for the reason on the certificate return) _____.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Edinburg,
Texas on this the 29th day of May, 2014.

**LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS**

CLAUDIA J. RODRIGUEZ, DEPUTY CLERK

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is
_____, and the address is _____, and I
declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of
20 _____.

Declarant”

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		Postmark Here
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	
DESCON 4S, L.L.C.		
Sent To	ATTN: MICHAEL D. SMITH	
Street, Apt. or PO Box	5801 N. 10TH STREET, SUITE 500	
City, State,	MCALLEN, TX 78504	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Anette Gonzalez</u></p> <p>C. Date of Delivery <u>6-27-14</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>ERO INTERNATIONAL, L.L.P. 300 SOUTH 8TH STREET MCALLEN, TX 78501</p> <p>0-51210-14-11(CT.)</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail* <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7014 0510 0001 4918 5952</p>			
<p>PS Form 3811, July 2013 Domestic Return Receipt</p>			

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

* Sender: Please print your name, address, and ZIP+[®] in this box.

AT O CLOCK M

Hidalgo County
District ~~GENK~~ - 5 2014

P.O. Box 87
Edinburg, TX 78540

DL:

By



**C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS**

CITATION

THE STATE TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

**ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS
300 SOUTH 8TH STREET
MCALLEN, TEXAS 78501**

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10:00 o'clock a.m on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable 389th District Court of Hidalgo County, Texas at the Courthouse, 100 North Closner, Edinburg, Texas 78539.

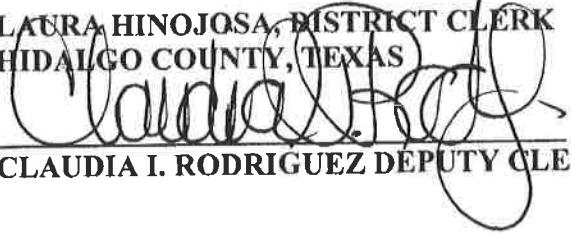
Said Petition was filed on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being, C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C. AND ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by Attorney JESUS RAMIREZ,
700 N. VETERANS BLVD., EBONY PARK, SUITE B SAN JUAN, TX 78589.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 29th day of May, 2014.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS

CLAUDIA I. RODRIGUEZ DEPUTY CLERK

CERTIFIED MAIL 7014 0510 0001 4918 5952

**CERTIFICATE OF RETURN
UNDER RULES 103 T.R.C.P.**

This is to certify that on this the 29th day of May, 2014 I, Claudia I. Rodriguez, Deputy Clerk of the 389th District Court of Hidalgo County, Texas mailed to the defendant in Cause Number C-5149-14-H, Pharr San Juan Alamo Independent School District VS. Texas Descon, L.P., Descon 4S, L.L.C., ERO International, L.L.P. d/b/a ERO Architects a copy of the citation along with a copy of the petition by certified mail return receipt requested. Return receipt was returned on the _____ day of _____, 201____ (or unserved for the reason on the certificate return) _____.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Edinburg, Texas on this the 29th day of May, 2014.

**LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS**

CLAUDIA I. RODRIGUEZ, DEPUTY CLERK

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and I _____, and I declare under penalty of perjury that the foregoing is true."

EXECUTED in _____ County, State of _____
20_____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at www.usps.com		
OFFICIAL USE		
4918 5952 0001 0001 0001 0001 0001	Postage \$ _____ Certified Fee _____ Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$ _____	
	Postmark Here	
	Sent To Street, Apt. No. or PO Box No. City, State, ZIP	
	ERO INTERNATIONAL, L.L.P. 300 SOUTH 8TH STREET MCALLEN, TX 78501	
	PS Form 3800, August 2006 See Reverse for Instructions	

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

NOW COMES, Pharr San Juan Alamo Independent School District, Plaintiff herein, complaining of Texas Descon, L.P., Descon 4S, L.L.C., and ERO International, L.L.P., d/b/a ERO Architects, and would show the Court as follows:

I.

Plaintiff intends to conduct discovery under Level 2 pursuant to Texas Rules of Civil Procedure 190.2.

II. Jurisdiction and Venue

Venue is proper in Hidalgo County, Texas, as all or a substantial part of the acts or omissions giving rise to this cause of action occurred there. Tex. Civ. Prac. & Rem. Code, Section 15.002(a)(1).

III. Parties

C-5149-14-H

Plaintiff is Pharr San Juan Alamo Independent School District, a public independent school district and a political subdivision, duly formed and existing under the laws of the State of Texas, based in Hidalgo County, Texas.

Defendant is Texas Descon, L.P., a business entity with its principal office located in McAllen, Hidalgo County, Texas. It may be served through its registered agent for process, Michael D. Smith, at 5801 N. 10th Street, Suite 500, McAllen, Texas 78504.

Defendant is Descon 4S, L.L.C., a business entity with its principal office located in McAllen, Hidalgo County, Texas. It may be served through its registered agent for process, Michael D. Smith, at 5801 N. 10th Street, Suite 500, McAllen, Texas 78504.

Defendant is ERO International, L.L.P. d/b/a ERO Architects, a business entity with its principal office located in McAllen, Texas. It may be served through any adult person authorized to accept service on behalf of ERO International, L.L.P. at 300 South 8th Street, McAllen, Texas 78501.

**IV.
Facts**

On or about February, 2008, the governing board of Pharr San Juan Alamo Independent School District (hereinafter, "Plaintiff" or "the District") authorized a preliminary investigation and assessment into the feasibility of upgrading and/or renovating existing structures at the District's Memorial Middle School campus in Pharr, Texas. One of the buildings considered for renovations and/or upgrades was a three-story main building, constructed in 1915 or 1918 with subsequent remodeling and/or

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additions in 1976 and 1986. Other buildings considered for renovation included a building used for textbook storage and a building used as a band hall, both originally constructed sometime in the 1940's.

On or about February 22, 2008, a Houston-based firm of consulting engineers, Terracon, published its report of an on-site property condition assessment and inspection of the buildings considered for renovations/upgrades. Terracon's assessment was based upon visual inspection of the property, some construction drawings relating to alteration and remodeling projects, as well as interviews with the District's construction manager, Mr. Ray Sanchez and Mr. Eli Ochoa, P.E., A.I.A., an engineer working for Defendant ERO International, L.L.P., an architectural firm (hereinafter, "Defendant" or "ERO"). The Terracon report concluded that the buildings were in "fair to poor condition" and recommended that a detailed investigation of the foundation and structural framing be conducted by a qualified structural engineer to ascertain the viability of future renovations of the buildings. The Terracon report further noted that during inspection they discovered water ponding in the basement floor.

On or about March 3, 2008, Defendant ERO completed its own inspection of the existing structures at Memorial Middle School. ERO's report of its inspection noted various problems with the existing structures and the site, including large amounts of standing water and needed repairs or upgrades to the roofing system and exterior walls. The report ultimately recommended that the District should replace the campus rather than proceed with renovations and upgrades, and cautioned that major transformations, such as an evisceration of interior components for structural repairs to the foundation, sub-flooring and walls would be necessary if the District proceeded with renovations.

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Nevertheless, on the basis of subsequent representations from Defendant ERO that it would be safe, feasible and economically practicable to proceed, the governing board of the District authorized the renovation/upgrade project ("the Project"), to be completed in two phases. Phase I would be the upgrade/renovation and adaptive reuse of the three story main building ("Main Building") and Phase II would be the upgrade/renovation and adaptive reuse of the band hall and textbook storage building.

Defendant Texas Descon, L.P. through its general partner Descon 4S, L.L.C. (collectively, the "Descon Defendants") executed a contract as the General Contractor on the Project on or about May 4, 2010. Defendant ERO executed a contract as the Architect on the Project, on or about May 26, 2010.

Phase I of the Project entailed demolition of certain outer columns and support structures in order to construct improvements to the Main Building. Specifically, these improvements would be structures that linked newer building wings to the Main Building. During the course of the demolition of the outer support structures, portions of the main school building not designated for demolition, including large parts of the west wall and second story floor, collapsed.

Regarding Phase II of the Project, it was discovered in the course of construction of additions and renovations to the textbook storage building and band hall that the walls and support systems would have to be entirely demolished and rebuilt for stability purposes, essentially requiring that the buildings be re-constructed from the foundation up.

Post-delivery of the Phase I Project to Plaintiff, the basement floor exhibited infiltration of water requiring changes to the initial specifications and a major overhaul to

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the flooring.

V.**Breach of Contract**

Plaintiff realleges and incorporates each material allegation contained in Paragraphs I through IV of this Petition as if fully set forth herein. Defendants breached their respective construction project contracts with Plaintiff by failing to perform the work as contemplated, or performing the work in a sub-standard manner that caused damage to Plaintiff's property. The respective contracts were supported by consideration, were never repudiated by any party to them, and all conditions precedent to their enforcement have occurred. Plaintiff incurred damages from the respective breaches of contract by having to incur expenses to repair, redesign, and replace the damaged buildings. For these damages, Plaintiff seeks redress from this Court.

VI.
Negligence

Plaintiff realleges and incorporates each material allegation contained in Paragraphs I through V of this Petition as if fully set forth herein. The Descon Defendants were negligent in the following ways: planning and/or execution of the demolition portion of Phase I of the Project, resulting in the toppling of large portions of the west wall and second story floor and damaging the east wall and failing to follow the specifications and product installation conditions for the basement floor. This negligence on the part of the Descon Defendants included, but was not limited to, failure to

C-5149-14-H

adequately inspect and test the structures and site beforehand and failure to use appropriate demolition means and methods.

Defendant ERO was negligent in one or more of the following ways: failing to undertake a more thorough investigation and determination of the structural integrity and conditions of the facilities; failure to advise Plaintiff during the design phases of Project of ERO's lack of sufficient information to design and specify the Project; and advising Plaintiff to proceed with bidding the Projects in spite of insufficient plans and specifications. Negligence on the part of Defendant ERO also included, but was not limited to, failure to adequately inspect and test the structures, failure to require and review a submittal for proper demolition means and methods, and failure to design improvements/additions to the existing structures which would have been appropriate and feasible.

ERO's negligence in its advice to Plaintiff and its negligent design, combined with Descon's negligence, resulted in the toppling of large portions of the west wall and second story floor of the main classroom building, the moisture infiltration to the basement floor and the additional cost of completion of the textbook storage facility and band hall.

Defendants collectively owed a duty of care to plan and perform the demolition in a manner that would not result in the destruction of the District's property that was not scheduled for demolition, and to recommend and design additions and renovations that were appropriate for existing structures at the Memorial Middle School campus. Defendants breached this duty, proximately causing damages to Plaintiff.

C-5149-14-H

Plaintiff has suffered injury in that costs to clean up, redesign, and rebuild the structures were incurred. For these damages, Plaintiff seeks redress from this Court. The Certificate of Merit of Bradford Russell, AIA, Architect, detailing the specific acts of negligence of Defendant ERO, is attached herein as Exhibit "A," and incorporated for all purposes.

VII.
Negligent Misrepresentation

Plaintiff realleges and incorporates each material allegation contained in Paragraphs I through VI of this Petition as if fully set forth herein. Plaintiff brings this action for common law misrepresentation against Defendant ERO. Defendant ERO provided false information to Plaintiff in the course of Defendant's business. ERO failed to exercise reasonable care or competence in obtaining and communicating, and Plaintiff justifiably relied on, the information, with damages to Plaintiff proximately resulting from said reliance. Specifically, Defendant ERO represented to Plaintiff that the improvements in the form of renovations and additions that ERO recommended and designed would be appropriate for the existing structures at the Memorial Middle School campus, and could be feasibly completed as planned without foreseeable damage to existing structures, and without necessitating demolition and rebuilding of portions of structures not designated for demolition/rebuilding.

Plaintiff justifiably relied upon the representations of ERO in making its decision to approve the improvements, based upon ERO's professional credentials, and thereby suffered damages when it was discovered that the improvements recommended and

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designed by Defendant ERO were not appropriate for the existing structures and could not be completed without excess destruction and rebuilding far beyond what was originally contemplated.

**VIII.
Gross Negligence**

Plaintiff further alleges that the acts and omissions of Defendant ERO constituted gross negligence, in that these acts or omissions, when viewed objectively from ERO's standpoint at the time of the occurrence, involved an extreme degree of risk considering the probability and magnitude of potential harm to others, which ERO had actual subjective awareness of the degree of risk involved, but proceeded with conscious indifference to the rights, safety, and welfare of others. Pleading more specifically, Defendant ERO recommended and designed improvements in the form of renovations and additions to existing structures at the District's Memorial Middle School campus when it had actual, subjective knowledge that no renovations or additions should be contemplated because of inherent problems with the structures, yet nevertheless proceeded to recommend and design these improvements with a conscious disregard of the possibility of catastrophic accidents causing extreme property damage and/or potential injury and loss of life.

**IX.
Limitations/Repose**

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Plaintiff, being a school district, alleges that none of the causes of action pled herein are barred by limitations by operation of Tex. Civ. Prac. & Rem. Code, § 16.061.

Further, Plaintiff alleges that the Statute of Repose found in Tex. Civ. Prac. & Rem. Code § 16.008 does not bar its claim against Defendant ERO, who designed or planned the improvements on the Project, as Plaintiff has filed suit within ten years of the beginning of the operation of the equipment at the Project site.

Further, Plaintiff alleges that the Statute of Repose found in Tex. Civ. Prac. & Rem. Code § 16.009 does not bar its claim against the Descon Defendants, who constructed or repaired improvements in the course of the Project, as Plaintiff filed suit within ten years of the substantial completion of the improvements (i.e., renovations and additions to the buildings in question).

**X.
Resulting Legal Damages**

Plaintiff is entitled to the actual damages proximately resulting from the Defendants' actions and omissions. Plaintiff has sustained damages in excess of the minimal jurisdictional limits of this Court resulting from the Defendant's acts and/or omissions. Plaintiff is also entitled to recover exemplary damages pursuant to Chapter 41 of the Texas Civil Practice & Remedies Code for the actions of Defendant ERO which constitute gross negligence.

**XI.
Jury Demand**

Plaintiff demands a trial by jury and tenders the appropriate fee with this Petition.

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XII.
Prayer

WHEREFORE, Plaintiff requests that the Defendants be cited to appear and answer, and that on final hearing, Plaintiff recover from Defendants, jointly and severally:

1. Damages against Defendant in an amount exceeding the minimum jurisdictional limits of this Court, plus accrued interest from the date on which the claim accrued to the date of judgment;
2. Exemplary damages;
3. Attorney's fees in a reasonable sum as the Court may award;
4. Costs of suit, and pre and post judgment interest;
5. In the event of an appeal to the court of appeals, additional reasonable attorney's fee; in the event of granting of writ to the Supreme Court, additional reasonable attorney's fees.
6. Such other and further relief to which Plaintiff may be justly entitled at law or in equity.

Respectfully Submitted,

THE J. RAMIREZ LAW FIRM
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
(956) 502-5424
(956) 502-5007

By: 
JESUS RAMIREZ

C-5149-14-H

SBN 16501950
Email: ramirezbook@gmail.com
Attorney for Plaintiff
ROBERT SCHELL
SBN 24007992
Email: robert_schell@hotmail.com
ATTORNEYS FOR PHARR
SAN JUAN ALAMO I.S.D.

C-5149-14-H

EXHIBIT "A"

C-5149-14-H

CAUSE NO. _____

PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT § IN THE DISTRICT COURT
§
Plaintiff §
§
vs. §
§ HIDALGO COUNTY, TEXAS
TEXAS DESCON, L.P., DESCON 4S, §
L.L.C. and ERO INTERNATIONAL, §
L.L.P. d/b/a ERO ARCHITECTS §
Defendants §
§
_____ JUDICIAL DISTRICT

AFFIDAVIT OF BRADFORD RUSSELL, A.I.A., P.E.

THE STATE OF TEXAS §
§
COUNTY OF HIDALGO §

BEFORE ME, the undersigned authority, on this day personally appeared Bradford Russell, A.I.A., P.E., who being by me duly sworn on oath deposed and said:

1. "My name is Bradford Russell. I am over the age of twenty-one (21) years, I have never been convicted of a felony, and I am competent to make this affidavit. I have personal knowledge of the matters contained in this affidavit, and they are true and correct.
2. This affidavit is submitted pursuant to the requirements of TEXAS CIVIL PRACTICE AND REMEDIES CODE § 150.002, with respect to the architectural services provided by Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects in the design and planning of improvements at Pharr San Juan Alamo Independent School District's Memorial Middle School in Pharr, Texas (the "Project").
3. I am a licensed professional architect and structural engineer in the state of Texas, I am competent to testify, and I am actively engaged in the practices of architecture and engineering. A true and correct copy of my resume is attached hereto as Exhibit A, and is incorporated herein by reference for all purposes.
4. Based on my research, experience in the industry, and review of Project Documents, as described herein below, Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects were engaged in, and were retained on the Project, to plan and design improvements, including renovations and additions to existing structures and all architectural requirements in connection therewith.

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5. As shown in my resume, Exhibit A, I am licensed to practice architecture, and have, for the past 15 plus years, been actively engaged in providing architectural services for clients similar in nature and geographic location to the Project.

6. Based on my education and professional experience, I have personal knowledge of the acceptable standards for the practice of architecture and the plan and design of improvements including renovations and additions to older structures and all architectural requirements in connection therewith, in the state of Texas and the greater McAllen area, which was the task to be performed by **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects** on this Project.

7. I have reviewed the following documents (the "Project Documents" herein) relating to the Project and **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects' services** in this matter:

See Exhibit B: Project Documents

8. Based on my education, experience, and a review of the Project Documents, it is my professional opinion that **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects** is responsible for at least the following act, error, or omission that exists on the Project:

- 1) Failing to undertake a more thorough investigation and determination of the structural integrity of an existing building for future modifications, and existing conditions of the facilities,
- 2) Failure to advise Plaintiff during the design phases of Project of ERO's lack of sufficient information to design and specify the Project without a degree of uncertainty,
- 3) Failure to require and review a submittal for proper demolition of Project from the contractor for the construction,
- 4) Failure to design improvements/additions to the existing structures which would have been appropriate for structures of similar age and condition.

9. These acts, errors, and/or omissions show that **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects** failed to meet the applicable work product standards of similar design professionals.

10. My investigation is ongoing, and further examination of the Project may lead to a different understanding or to the discovery of additional negligent acts, errors, and/or omissions in the work performed by **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects**. As a result, I reserve the right to supplement and/or expand my opinions and conclusions with respect to the performance of **Mr. Eli Ochoa, A.I.A., P.E. and ERO International, L.L.P. d/b/a ERO Architects**.

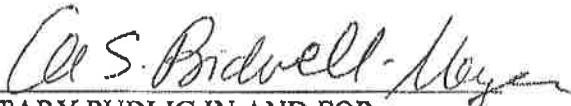
C-5149-14-H

Further affiant sayeth naught.



BRADFORD RUSSELL, A.I.A., P.E.

SUBSCRIBED AND SWORN TO before me by the said Bradford Russell on this the
9th day of May, 2014 to certify which witness my hand and seal of office.



Laura S. Bridwell-Meyers

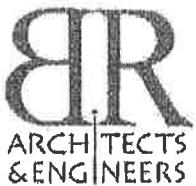
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires:

11-19-2017



C-5149-14-H



Bradford Russell, AIA, P.E.
Director of Architecture / Engineering
BR Architects, Inc.

Education:

Southern Methodist University, Dallas, Texas
Currently writing PhD
University of Texas at Arlington
Master of Engineering in Civil / Structural Engineering
Texas Tech University, Lubbock, Texas
Bachelor of Architecture, Tau Sigma Delta Honor Society,
Bachelor of Science in Civil Engineering, Tau Beta Pi Honor
Society, Chi Epsilon Honor Society

Professional Registration:

Registered Architect, State of Texas
Registered Architect, State of Oklahoma
Registered Professional Engineer, State of Texas
Registered Professional Engineer, State of Oklahoma
Certified to practice Structural Engineering by the Structural Engineering
Certification Board (SECB)
Registered Accessibility Specialist
National Council of Architectural Registration Boards (NCARB)
NCARB Seismic Mitigation Monograph
NCEES file holder
NCEES International Registry Certificate holder
LEED Accredited Professional
CalEMA Safety Assessment Program card holder
Texas Department of Insurance - Engineers Appointed to Perform
Windstorm Inspections

Professional Affiliations:

Dallas Chapter AIA,
Texas Society of Architects
American Institute of Architects
American Society of Civil Engineers
Structural Engineering Institute
Structural Engineering Association of Texas
US Green Building Council
Greater Dallas Planning Council, Board Member

Professional Organization Positions:

Dallas Chapter AIA,
Past Small Firms Committee Chair
Past Construction Industries Affairs Co-Chair

BR ARCHITECTS, Inc.

2007 N. Collins Blvd., Suite 507 • Richardson, Texas 75080 • P (972) 235-9308 • F (972) 235-9388

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National AIA
Past Executive National SFRT Committee Co-Chair
Past Member Board Knowledge Committee
Past President Dallas Structural Engineering Association of Texas –
SEAct
Current SEAoT Chair to Structural Engineering Emergency Response
Plan (SEERP)
Current SEAoT / AIA Liaison

Pending Patent:

Patent Application No.: 13/969,529
Patent Title: Load Bearing Structural Assembly
A Load Bearing Structural Assembly is created to transfer and absorb
loading between parts more evenly and efficiently

Selected Publications:

2000	'Columns – Monthly Publication of the Dallas Chapter of American Institute of Architects' – The Psychology of Architectural Space, December.
2005	'Dallas / Fort Worth Construction News' – Green design, flexible environments, enhanced roadways among current trend – editorial interview, September.
2006	'Dallas Office & Commercial – Real Estate Magazine' – 'What Next?', Issue 4.
2009	'The Structural Engineer – A Publication of the Structural Engineers Association of Texas' – Green Materials to Offset Seismic and Other Natural Disaster Events, Spring.
2009	'The American Institute of Architects Chicago Chapter – Changing Times / Time for Change' – The Use of Green Materials in the Construction of Buildings' Structure, September.
2013	'Pre-Cast Manufacturer Association of Texas – yearly membership publication' - What happens to the structure when it is created as art?, September.

Litigation Consulting:

2008-2012	Under contract with TBAE for reviewing and consulting on the Architectural and Structural Engineering litigation related issues of statutory provisions and rules enforced by the Board. This consulting includes competence and/or legal authority of the design professional to perform services noted as well as other issues.
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2003-2014 Various Architectural and Structural Engineering litigation consulting concerning various inter-discipline issues of practice. Various Architectural and Structural Engineering project failure investigations -- various building types.

Representative Projects (Condensed list):

Building Forensic Investigation:

2005 – 2014 Various multi-story building investigations on elevator failures (Architectural and Structural) various locations through the southeast / west – Architectural Investigation and Reporting, and Structural Engineering Investigation and reporting.

2011 DART retaining wall failure building impact investigation, Irving, Texas – 12,000 sq.ft. building adjacent to DART retaining wall experienced structural failures in foundation, paving, roof framing, exterior concrete panels, etc. – Structural Engineering Investigation and Reporting.

2010 Greenville Avenue Historic Building fire damage renovation, Dallas, Texas – 11,000 sq.ft. building footprint, 3,100 sq.ft. 2nd floor mezzanine, 6,500 sq.ft. roof top mezzanine – Structural Engineering Design and Documentation - \$1,000,000 estimated construction cost.

2007 Robert Lynn Commercial Real Estate Services, Dallas, Texas – 151 Regal Row – 180,000 sq.ft. warehouse structural forensic investigation – Structural Engineering Investigation and Reporting.

2007 WellsREIT / Emcor, Irving, Texas – 6333 N. State Highway 161 – structural investigation for various building failures including garage exterior wall joint, exterior retaining wall, exterior panel, etc. – Structural Engineering Investigation and Reporting.

2007 JP Morgan Chase, Dallas, Texas – 6300 Harry Hines – approximately 30,000 sq.ft. investigation of multi-story building - structural capacity investigation for increase in floor loading – Structural Engineering Investigation and Reporting.

Hotel Design:

2006 Courtyard by Marriott, Waco, Texas – 4,000 sq. ft. structural remodel - wood frame, wood truss, wood lateral support – Structural Engineering Design, Documentation - \$350,000 construction cost.

2003 Amerihost Inn Hotel, Gun Barrel City, Texas – 75,000 sq. ft. structural engineering design, wood frame, steel and wood lateral support, concrete foundation – Structural Engineering Design, Documentation - \$5.8 million construction cost.

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1999 Bradford Home Suites, Dallas, Houston, North Park, Texas – 85,000 sq. ft. to 109,000 sq. ft. structural engineering design, wood frame, post tension parking and foundation – Structural Engineering Design, Documentation - \$5.6 million construction cost.

Commercial Design:

2003 Informatics, Inc., Plano, Texas – 35,000 sq. ft. office / warehouse - tilt up construction, steel joist, and concrete slab on grade – Architectural Design, Production and Management - \$2.7 million construction cost.

2003 ESI, Inc., Plano, Texas – 20,000 sq. ft. office / warehouse addition to existing facility - tilt up construction, composite steel beam concrete floor, and concrete slab on grade – Architectural Design, Production and Management - \$1.8 million construction cost.

2010 Gold Metal Recyclers, Dallas, Texas – 10,000 sq. ft. office addition into existing metal building, wood, steel, and concrete - Architectural and Structural Engineering Design, Documentation - \$0.65 million construction cost.

2010 RTVF, Dallas, Texas – 6,000 sq. ft. footprint with 6,000 sq. ft. 2nd floor office reconstruct, wood, steel, and concrete - Architectural and Structural Engineering Design, Documentation - \$0.75 million construction cost.

2005 HSR Plaza Phase II, Carrollton, Texas – 14,000 sq. ft. professional office building, wood, steel, masonry, and structure – Architectural and Structural Engineering Design, Documentation - \$1.4 million construction cost.

2014 Modern Forge Texas Office, Hurst, Texas – 5,000 sq. ft. regional manufacturing office building, steel frame, masonry, EIFS, and structure - Architectural and Structural Engineering Design, Documentation - \$500 thousand construction cost.

Industrial Design:

1996 Jupiter 190 Building 4, Dallas, Texas – 200,000 sq. ft. warehouse using tilt up construction, steel joist, and concrete slab on grade – Architectural Design, Production, and Management - \$7 million construction cost.

1996 Excel Warehouse, Addison, Texas – 200,000 sq. ft. warehouse using tilt up construction, steel joist, and concrete slab on grade – Architectural Design, Production, and Management - \$6.6 million construction cost.

2005 Atlas Copco Office, Garland, Texas – 2,000 sq. ft. addition to drilling assembly areas – steel frame, composite floor 2nd floor, concrete slab on grade 1st floor – Architectural Design, Production, Structural Engineering Design, Production - \$500,000 construction cost.

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Retail Design:

2005 Whitetail Nurseries, Mesquite, Texas – 17,500 sq. ft. flower growing, distribution, and retail – Architectural Design, Production, Structural Engineering Design, Production - \$850,000 construction cost.

2004 Family Dollar Retail / Office, Garland, Texas – 9,000 sq. ft. retail / office using CMU load bearing masonry, steel joist, and concrete slab on grade – Architectural Design, Production, and Management, Structural engineering Design, Production, and Mgmt. - \$800,000 construction cost.

1999 Walgreen's Retail Store, Plano, Texas – 14,000 sq. ft. retail store with all amenities – steel framing, tilt up walls –Structural Engineering Design, Project Management - \$1,200,000 construction cost.

Entertainment Design:

2006 Paciugo Ice Cream, Frisco, Texas – 4,000 sq. ft. interior finish out of shell structure, dining, kitchen, rest rooms, and other amenities – Architectural Design, Documentation, Project Management - \$400,000 construction cost.

2004 Rick's Kicks Martial Arts Studio, Frisco, Texas – 5,000 sq. ft. martial arts studios, office, video room, and other amenities – stone / brick veneer, wood frame, steel support, wood lateral resistance, concrete foundation - Architectural Design, Production, and Management, Structural engineering Design, Production, and Mgmt. - \$550,000 construction cost.

1993 The Ballpark in Arlington, Arlington, Texas – \$191 million structure, steel framed, masonry veneer, concrete foundation – Architectural Construction Administration, Structural Engineering revisions during construction.

Governmental Design:

2010 Red River Army Blast Booth, Texarkana, Texas – 10,000 sq. ft. blast booth for equipment repair and cleaning – Structural Engineering Design and documentation - \$800,000 construction cost.

Municipal Design:

2010 City of Richardson Fire Station, Richardson, Texas – 2,500 sq. ft. metal storage building addition to existing fire station – Architectural Design, , Construction Administration, Structural Engineering Design and Documentation - \$75,000 construction cost.

2001 Southern Hunt County Community Center, Quinlan, Texas – 9,800 sq. ft. steel framed, masonry exterior - gymnasium, recreation areas, kitchen, and offices – Architectural Design, Production and Management - \$880,000 construction cost.

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1999 Richardson Senior Citizens Center, Richardson, Texas – 3,000 sq. ft. addition, 12,000 sq. ft. interior remodel and finish out – Architectural Design, Management and Construction Administration - \$900,000 construction cost.

LEED Projects (in Progress):

Green Projects:

2008 Fort Hood Family Housing, Fort Hood, Texas – 8,000 sq. ft. Community Center - single story LEED Silver – Structural Engineering Design, Production, Construction Administration, LEED Consulting - \$1,500,000 estimated construction cost.

2006 McKinney Aero County Airport, McKinney, Texas – 6,300 sq. ft. interior finish out / remodel of existing county airport into weekend residence / office – Architectural Design, Production, Construction Administration, Various Structural Engineering Design and Documentation - \$530,000 construction cost.

2006 Colorado Blvd. Residence Remodel / Addition, Dallas, Texas – 5,000 sq. ft. remodel and addition – wood framed, concrete/brick foundation early 1900's residence design by renowned Louisiana architect – Architectural Design, Structural Engineering Design, Documentation, and Management – \$630,000 construction cost.

2002 Cristina's Flowers, Plano, Texas – existing home addition / conversion to 10,000 sq. ft. flower distribution and retail – Architectural Design, Production and Construction Administration - \$600,000 construction cost.

Restaurant Design:

2007 Pizza Hut - Frisco Soccer & Entertainment Complex, Frisco, Texas – 6,500 sq.ft. dining, kitchen, rest rooms, and other amenities – Project Management, Structural Engineering Design - \$550,000 construction cost.

2003 Cheddars Restaurant, Arlington, Texas – 11,500 sq. ft. dining, kitchen, office, rest rooms, and other amenities – steel framing, load bearing CMU, spread and continuous footings, stone veneer - Project Management, Structural Engineering Design - \$1.0 million construction cost.

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1999 Chuckie Cheese Restaurant, Burnsville, Arizona – 11,000 sq. ft. dining, kitchen, office, rest rooms, and other amenities – Project Management, Structural Engineering Design - \$1.0 million construction cost.

Multifamily Design / Management:

2007 TownParc Apartment Complex, Amarillo, Texas – 150 units, 270,000 sq. ft. apartment complex – Structural Construction Management / Observation - \$20 million construction cost.

2007 CityParc at Golden Triangle, Fort Worth, Texas – 312 units, 370,000 sq. ft. apartment complex – Structural Construction Management / Observation - \$30 million construction cost.

1997 Arbors of Denton Apartment Complex, Denton, Texas – 244 units, 180,000 sq. ft. apartment complex – Architectural Design, Production and Management - \$9.8 million construction cost.

1996 Hobby House Apartment Complex, Austin, Texas – 200+ units apartment complex – Architectural Design, Production and Management - \$8 million construction cost.

Religious Design:

2000 Crosspoint Church, McKinney, Texas – 20,405 sq. ft. worship center - classroom space, kitchen, and support spaces with phased master plan – Architectural Design and Construction Administration - \$2.5 million construction cost.

2000 Christ United Methodist Church, Plano, Texas – 30,411 sq. ft. classroom education building with support spaces – Architectural Design and Construction Administration - \$3.3 million construction cost.

2010 Trinity Presbyterian Church, Plano, Texas – wind storm damage / steeple replacement – Architectural Design, Construction Administration, and Structural Engineering - \$50,000 construction cost.

Educational Design:

2003 K. B. Polk Elementary School, Dallas, Texas – 35,000 sq. ft. classroom / office addition - concrete and masonry construction, steel frame roof, Architectural Design - \$3.5 million construction cost.

1998 Brownsville High School, Brownsville, Texas – 70,000 sq. ft. education building -steel frame, CMU non-load bearing walls, concrete foundation – Structural Engineering Design - \$6 million construction cost.

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Medical Design:

2006 Healthy Paws Veterinary Center, Little Elm, Texas – 1,600 sq. ft. veterinary exam rooms and offices to an existing 4,500 sq. ft. veterinary exam room building, wood frame structure – Architectural Design, Documentation, Structural Engineering Design, Documentation, Construction Administration - \$250,000 Construction Cost.

1997 Auburn Medical Office Building, Auburn, Washington – 70,000 sq. ft. office building for physicians, reinforced concrete and CMU structure – Structural Engineering Design - \$10.5 million construction cost.

1997 Bristol Regional Medical Center, Bristol, TN – 100,000 sq. ft. medical facility remodel, addition – Architect, Construction Administrator - \$9.8 million construction cost.

Interior Remodel / Design:

2010 Greenfield Foose office remodel, Dallas, Texas – 25,000 sq. ft. building foot print with 6,000 sq.ft. 2nd floor interior remodel of existing metal building space into office space - Architectural Design, Production, and various Structural Engineering - \$1,300,000 estimated construction cost.

2007 RoughRiders Merchandise Pavilion, Frisco, Texas – 4,000 sq. ft. interior finish out of existing space into retail space - Architectural Design, Production, and Construction Administration - \$340,000 construction cost.

2002 The Centre for Dance, Richardson, Texas – 10,000 sq. ft. interior finish-out of existing office space into dance studio, offices, kitchen, restrooms - Architectural Design, Production and Construction Administration - \$300,000 construction cost.

2000 Randstad North America, Farmers Branch, Texas – 4,200 sq. ft. offices, restrooms, conference rooms, interior finish out – Architectural Design and Construction Administration - \$180,000 construction cost.

Exterior Remodel / Design:

2007 Galleria North, Dallas, Texas – 70,000 sq. ft. floor area exterior veneer redesign – Architectural Design - \$1.5 million construction cost.

Various Unique Architectural & Structural Design:

2007 Routh Street Wine Cellar, Dallas, Texas – 450 sq. ft. underground wine cellar – Structural Engineering Design, Documentation, and Management - \$100,000 construction cost.

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2006 Watermark Land Development, Wylie, Texas – 500 ft. – Entry water Feature - Structural Engineering Design, Documentation, and Management - \$800,000 construction cost.

2006 Hilton Tulsa Southern Hills, Tulsa, Oklahoma – 2,500 sq. ft. – pool enclosure addition to existing concrete structural frame - Structural Engineering Verification, Design and Management - \$100,000 construction cost.

2006 Residential Exercise Pavilion Saudi Arabian Prince, Dallas, Texas – 500 sq. ft. addition – wood framed structure over concrete foundation built into hillside – Architectural Design, Structural Engineering Design, Documentation, and Management – \$130,000 construction cost.

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C-5149-14-H

Exhibit B

Project Documents:

- 1) Construction Document Project Manual dated 03-01-10,
- 2) PJSA ISD T-Stem Early College High School Phase 1 Renovations and Additions 100% Construction Documents dated 02-24-10,
- 3) Thomas Jefferson Early College High School Phase II Renovations and Additions Construction Documents dated 01-31-12,
- 4) AIA Document A101 – 2007 dated 05-04-10,
- 5) AIA Document B141 – 1997 dated 12-15-08,
- 6) ERO PJSA ISD School Assessments for Memorial Middle School dated 3-03-08,
- 7) Rimkus Consulting Group Structural Collapse Evaluation dated 01-21-11,
- 8) Frank Lam & Associates Structural Investigation of Partial Collapse of the Main Building PJSA ISD dated 10-18-10,
- 9) Change Order #1 – (T-STEM) Early College High School dated 12-08-10,
- 10) Terracon - Property Condition Assessment – Memorial Middle School dated 02-22-08,
- 11) ERO – Structural Report for Memorial Middle School dated 03-28-08,
- 12) Videotaped minutes of the Pharr San Juan Alamo ISD school board meeting of 06-08-09.

Items 1, 4 – 11 attached. Items 2, 3, and 12 available for inspection by any interested party upon reasonable notice at the J. Ramirez Law Firm, 700 North Veterans Boulevard, Ebony Park Suite B, San Juan, Texas 78589.

CONSTRUCTION DOCUMENT PROJECT MANUAL

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School) – PHASE I
RENOVATIONS & ADDITIONS
PROJECT NO. 09007 – PSJA ISD CSP #09-10-006
PHARR, TEXAS



PSJA Independent School District
601 E. Kelly, P.O. Box 1150
Pharr, Texas 78577



VOLUME I Project Information, Architectural and Structural Divisions

DATE
March 01, 2010

ARCHITECT
ERO Architects
300 S. 8th Street
McAllen, Texas 78501
(956) 661-0400 office
(956) 661-0401 fax



PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School) - PHASE I C-5149-14-H
RENOVATIONS AND ADDITIONS
Pharr - San Juan - Alamo Independent School District

ERO Architects
Project No. 09007
PSJA ISD CSP #09-10-006

SECTION 00 0107

SEALS PAGE

ERO ARCHITECTS
ARCHITECTURAL | ENGINEERING
300 SOUTH 8TH STREET
MCALLEN, TEXAS 78501

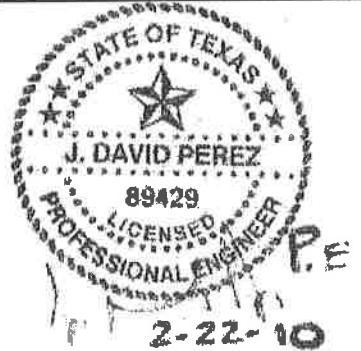
ARCHITECT: JESUS V. DELGADO, A.I.A.



02-24-10

PEREZ CONSULTING ENGINEERS
CIVIL ENGINEERING
808 DALLAS STREET
MCALLEN, TEXAS 78501

REGISTRATION NO. F - 2158,
ENGINEER: DAVID PEREZ, P.E.



2-22-10

FRANK LAM & ASSOCIATES, INC.
STRUCTURAL ENGINEERING
508 WEST 16TH STREET
AUSTIN, TEXAS 78701

REGISTRATION NO. F - 2545
ENGINEER: FRANK LAM, P.E.



2-24-10

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Pharr - San Juan - Alamo Independent School District

ERO Architects
Project No. 09007
PSJA ISD CSP #09-10-006

MEP SOLUTIONS ENGINEERING

M.E.P. ENGINEERING

600 E. BEAUMONT AVENUE

MCALLEN, TEXAS 78501

REGISTRATION NO. F-9748

ENGINEER: JAVIER PENA, P.E. (MECHANICAL & PLUMBING)

ABRAM DOMINGUEZ (ELECTRICAL)



END OF SEALS PAGE

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School) - PHASE I
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SECTION 00 0111

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DOCUMENTS 0 -- INTRODUCTORY INFORMATION, BIDDING REQUIREMENTS, AND CONTRACT REQUIREMENTS

00 0107 - SEALS PAGE

00 0110 - TABLE OF CONTENTS

00 0115 - LIST OF DRAWING SHEETS

PSJA ISD INVITATION TO SUBMIT BID / PROPOSAL AND SPECIAL CONDITIONS

A. PSJA ISD GENERAL PROVISIONS

1. Bid Preparation and Submission Procedures
2. Statement of Inclusion /Applicability
3. General
4. Contract Time Period
5. Addendum
6. Specifications
7. Bid Evaluation and Award
8. Quantities
9. Packaging

10. Pricing
11. Sales Tax
12. Delivery and Transportation
13. Quality
14. Product Inspection, Testing, and Defective Items
15. Samples
16. Warranties
17. Withdrawal or Modification of Bid
18. Substitutions
19. Deviations from Item Specification or General Terms and Conditions
20. Contract and Purchase Orders
21. Invoices, Packing Lists, and Payment
22. Remedies for Non-Performance of Contract, and Termination of Contract
23. Force Majeure
24. Non-Collusion Certification
25. Assignment - Delegation
26. Certifications regarding Legal, Ethical, and Other Matters
27. Equal Employment Opportunity (EEO) Disclosures
28. Venue
29. Indemnification
30. Arbitration
31. Choice of Law
32. Vendor Year 2000 Compliance
33. Waiver
34. Interpretation - Parole Evidence
35. Right to Assurance
36. Extension / Non-Appropriation Clause
37. Proposal Acceptance
38. Insurance Requirements
39. Installation (when applicable)
40. Inquiries and Interpretations
41. Evaluation Factors and Criteria

PSJA ISD FORMS

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School) - PHASE I
RENOVATIONS AND ADDITIONS C-5149-14-H
Pharr - San Juan - Alamo Independent School District

ERO Architects
Project No. 09007
PSJA ISD CSP #09-10-008

B. Forms Checklist (All Referenced Forms must be Signed and Submitted with Bid / Proposal or Bid / Proposal will be considered Non-Responsive)

1. Form A: Notification to Invitation to Bid
2. Form B: Deviations / Compliance Signature Page
3. Form C: Felony Convictions Disclosure Statement
4. Form D: Anti-Collusion / Bid Acknowledgement Clause
5. Form E: Conflict of Interest Questionnaire
6. Form F: Suspension or Debarment Certificate
7. Form G: Historically Underutilized Business (HUB)
8. Form H: Texas Family Code Certification
9. Form I: Dealerships Listing
10. Form J: Out of State Certifications Page
11. Form K: No Bid / No Proposal Reply Form
12. Form L: Instruction to School District Contractors
13. Form M: Direct Deposit Form
14. Form N: Vendor Acknowledgement Form

00 3000 - AVAILABLE PROJECT INFORMATION

GEOTECHICAL INVESTIGATION REPORT

00 4100 - BID FORM

**00 5200 - AGREEMENT FORM - AIA DOCUMENT A101 - STANDARD FORM OF
AGREEMENT BETWEEN OWNER & CONTRACTOR**

**00 7200 - GENERAL CONDITIONS - AIA DOCUMENT A201 - GENERAL CONDITIONS OF
CONTRACT FOR CONSTRUCTION**

00 8200 - WAGE RATES

DIVISION 1 -- GENERAL REQUIREMENTS

**NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION
INDEX FOR ASBESTOS ABATEMENT SPECIFICATIONS PROVIDED BY ENVIROTEST LTD.
(PSJA ISD PROVIDED CONSULTANT AND SPECIFICATIONS)**

01 1000 - SUMMARY

01 2000 - PRICE AND PAYMENT PROCEDURES

01 2100 - ALLOWANCES

01 2200 - UNIT PRICES

01 2300 - ALTERNATIVES

01 3000 - ADMINISTRATIVE REQUIREMENTS

01 3216 - CONSTRUCTION PROGRESS SCHEDULE

01 4000 - QUALITY REQUIREMENTS

01 5000 - TEMPORARY FACILITIES AND CONTROLS

01 5713 - TEMPORARY EROSION AND SEDIMENTATION CONTROL

01 6000 - PRODUCT REQUIREMENTS

01 7000 - EXECUTION AND CLOSEOUT REQUIREMENTS

01 7419 - CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

01 7800 - CLOSEOUT SUBMITTALS

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DIVISION 2 -- SITE CONSTRUCTION

NOTE: REFERENCE PROJECT MANUAL VOLUME II FOR TECHNICAL SPECIFICATION INDEX FOR CIVIL SPECIFICATION SECTIONS PROVIDED BY (PCE) PEREZ CONSULTING ENGINEERS, LLC

02 2000 - SITE PREPARATION

02 4100 - DEMOLITION

DIVISION 3 -- CONCRETE

NOTE: STRUCTURAL SPECIFICATION SECTIONS PROVIDED BY (FLA)* FRANK LAM & ASSOCIATES

03 0130.75 - CONCRETE REPAIR (FLA)*

03 1000 - CONCRETE FORMING AND ACCESSORIES (FLA)*

03 2000 - CONCRETE REINFORCING (FLA)*

03 3000 - CAST-IN-PLACE CONCRETE (FLA)*

03 3900 - CONCRETE CURING (FLA)*

03 5216 - LIGHTWEIGHT INSULATING CONCRETE (FLA)*

03 5400 - CAST UNDERLayment (FLA)*

DIVISION 4 -- MASONRY

04 0100 - MAINTENANCE OF MASONRY

04 0511 - MASONRY MORTARING AND GROUTING

04 2000 - UNIT MASONRY

04 2731 - REINFORCED UNIT MASONRY

04 7200 - CAST STONE MASONRY

DIVISION 5 -- METALS

NOTE: STRUCTURAL SPECIFICATION SECTIONS PROVIDED BY (FLA)* FRANK LAM & ASSOCIATES

05 1200 - STRUCTURAL STEEL FRAMING (FLA)*

05 2100 - STEEL JOIST FRAMING (FLA)*

05 3100 - STEEL DECKING (FLA)*

05 4000 - COLD-FORMED METAL FRAMING (FLA)*

05 5000 - METAL FABRICATIONS (FLA)*

05 5100 - METAL STAIRS

05 5134 - ALUMINUM LADDERS

05 5213 - PIPE AND TUBE RAILING

DIVISION 6 -- WOOD AND PLASTICS

06 0587 - HIGH PRESSURE DECORATIVE LAMINATES

06 1000 - ROUGH CARPENTRY

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- 06 1054 - WOOD BLOCKING AND CURBING
- 06 2000 - FINISH CARPENTRY
- 06 4100 - CUSTOM CABINETS
- 06 4216 - WOOD VENEER RAISED PANEL WAINSCOT
- 06 6510 - SOLID SURFACE FABRICATION

DIVISION 7 -- THERMAL AND MOISTURE PROTECTION

- 07 1360 - DRAINAGE WATERPROOFING
- 07 1400 - FLUID-APPLIED WATERPROOFING
- 07 1900 - WATER REPELLENTS
- 07 2100 - THERMAL INSULATION
- 07 2400 - EXTERIOR INSULATION AND FINISH SYSTEM
- 07 4113 - METAL ROOF PANELS
- 07 4646 - FIBER CEMENT SIDING
- 07 5300 - COAL-TAR ELASTOMERIC ROOFING SYSTEM (Armko)

07 6000 - SHEET METAL & MISC. ACCESSORIES FOR COAL-TAR ELASTOMERIC ROOFING SYSTEM (Armko)

- 07 6110 - SHEET METAL SOFFIT
- 07 6500 - THROUGHWALL FLASHING SYSTEM (Armko)
- 07 7200 - ROOF ACCESSORIES
- 07 8400 - FIRESTOPPING
- 07 9005 - JOINT SEALERS & SEALANTS
- 07 9513 - EXPANSION JOINT COVER ASSEMBLIES

DIVISION 8 -- DOORS AND WINDOWS

- 08 1113 - STEEL DOORS AND FRAMES
- 08 1210 - ALUMINUM INTERIOR DOOR FRAMES
- 08 1423 - ALUMINUM CLAD WOOD COMMERCIAL DOORS
- 08 1433 - STILE AND RAIL WOOD DOORS
- 08 3100 - ACCESS DOORS AND PANELS
- 08 3323 - OVERHEAD COILING DOORS
- 08 4100 - ALUMINUM ENTRANCES AND STOREFRONTS
- 08 4410 - GLAZED ALUMINUM CURTAIN WALL
- 08 5213 - ALUMINUM CLAD WOOD DOUBLE HUNG WINDOWS
- 08 7100 - DOOR HARDWARE & HARDWARE SCHEDULE (Assa/Abloy)
- 08 8100 - GLASS
- 08 8300 - MIRRORS

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DIVISION 9 -- FINISHES

- 09 2116 - GYPSUM BOARD ASSEMBLIES**
- 09 3000 - TILING**
- 09 3001 - TILE EDGE PROTECTION**
- 09 5100 - SUSPENDED ACOUSTICAL CEILINGS**
- 09 5114 - FABRIC-FACED ACOUSTICAL CEILINGS**
- 09 5470 - METAL TILE CEILING SYSTEM**
- 09 5700 - ACOUSTICAL WOOD CEILING SYSTEM**
- 09 6423 - HARDWOOD FLOORING - ADHESIVE APPLIED**
- 09 6500 - RESILIENT FLOORING (RUBBER)**
- 09 6501 - RESILIENT (RUBBER) FLOOR TILE, BASE AND STAIR TREADS**
- 09 6800 - CARPETING**
- 09 9000 - PAINTING AND COATING**

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- 10 1101 - VISUAL DISPLAY BOARDS**
- 10 1424 - PLASTIC SIGNS**
- 10 2113 - PLASTIC TOILET COMPARTMENTS**
- 10 2123 - CUBICLES**
- 10 2601 - WALL AND CORNER GUARDS**
- 10 2813 - TOILET ACCESSORIES**
- 10 4260 - CAST METAL PLAQUES**
- 10 4400 - FIRE EXTINGUISHERS, CABINETS AND ACCESSORIES**
- 10 5613 - METAL STORAGE SHELVING**
- 10 7500 - FLAGPOLES**

DIVISION 11 -- EQUIPMENT

- 11 0500 - LIBRARY ARTICLE SURVEILLANCE SYSTEM**
- 11 5213 - PROJECTION SCREENS**

DIVISION 12 -- FURNISHINGS

- 12 2113 - HORIZONTAL LOUVER BLINDS**
- 12 4940 - ROLLER SHADES**

DIVISION 13 - SPECIAL CONSTRUCTION - NOT USED

DIVISION 14 - CONVEYING SYSTEMS

- 14 2100 - ELECTRIC TRACTION ELEVATORS**

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REFER TO PROJECT MANUAL VOLUME III FOR THE FOLLOWING SECTIONS

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DIVISION 22 -- PLUMBING

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR MECHANICAL, ELECTRICAL & PLUMBING SPECIFICATION SECTIONS PROVIDED BY (MEPSE) MEP SOLUTIONS ENGINEERING

DIVISION 23 -- HEATING VENTILATING AND AIR CONDITIONING

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR MECHANICAL, ELECTRICAL & PLUMBING SPECIFICATION SECTIONS PROVIDED BY (MEPSE) MEP SOLUTIONS ENGINEERING

DIVISION 26 -- ELECTRICAL

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR MECHANICAL, ELECTRICAL & PLUMBING SPECIFICATION SECTIONS PROVIDED BY (MEPSE) MEP SOLUTIONS ENGINEERING

DIVISION 27 -- COMMUNICATIONS

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR MECHANICAL, ELECTRICAL & PLUMBING SPECIFICATION SECTIONS PROVIDED BY (MEPSE) MEP SOLUTIONS ENGINEERING

DIVISION 28 -- ELECTRONIC SAFETY AND SECURITY

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR MECHANICAL, ELECTRICAL & PLUMBING SPECIFICATION SECTIONS PROVIDED BY (MEPSE) MEP SOLUTIONS ENGINEERING

NOTE: REFERENCE PROJECT MANUAL VOLUME III FOR TECHNICAL SPECIFICATION INDEX FOR ASBESTOS ABATEMENT SPECIFICATIONS PROVIDED BY ENVIROTEST LTD. (PSJA ISD PROVIDED CONSULTANT AND SPECIFICATIONS)

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SECTION 00 0115

LIST OF DRAWING SHEETS

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ERO ARCHITECTS: VOLUME I

VS101	OWNER-PROVIDED SITE SURVEY
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DEMOLITION

ERO ARCHITECTS: VOLUME I

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AD102	ENLARGED SITE DEMOLITION PLAN
AD103	ENLARGED SITE DEMOLITION PLAN
AD104	SITE DEMOLITION PHOTOS
AD105	BAND HALL AND DRESSING ROOM DEMOLITION PHOTOS
AD201	COMPOSITE DEMOLITION BUILDING PLANS
AD202	DEMOLITION BASEMENT FLOOR PLANS
AD203	COMPOSITE FIRST FLOOR DEMOLITION PLAN
AD204	DEMOLITION FIRST FLOOR PLAN - AREA 'A' (CORE)
AD205	DEMOLITION FIRST FLOOR PLAN - AREA 'B' & 'C' (EAST & WEST WINGS)
AD206	DEMOLITION FIRST FLOOR PLAN - AREA 'B' & 'C' (EAST & WEST WINGS)
AD207	COMPOSITE SECOND FLOOR DEMOLITION PLAN
AD208	DEMOLITION SECOND FLOOR PLAN - AREA 'A' (CORE)
AD209	DEMOLITION SECOND FLOOR PLAN - AREA 'B' & 'C' (EAST & WEST WINGS)
AD210	COMPOSITE DEMOLITION ROOF PLAN
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AD302	DEMOLITION EXTERIOR ELEVATIONS & PHOTOS- EAST
AD303	DEMOLITION EXTERIOR ELEVATIONS & PHOTOS- SOUTH
AD304	DEMOLITION EXTERIOR ELEVATIONS & PHOTOS- WEST
AD305	DEMOLITION EXTERIOR ELEVATION & PHOTOS- VARIOUS
AD306	DEMOLITION BUILDING SECTIONS & PHOTOS
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AD308	DEMOLITION BUILDING SECTIONS & PHOTOS
AD309	DEMOLITION BUILDING SECTIONS & PHOTOS
AD310	DEMOLITION BUILDING SECTIONS & PHOTOS
AD311	DEMOLITION BUILDING SECTIONS & PHOTOS
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MECHANICAL,ELECTRICAL,PLUMBING - DEMOLITION**MEP SOLUTIONS ENGINEERING: VOLUME II**

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DM102	DEMOLITION MECHANICAL - FIRST FLOOR PLAN
DM103	DEMOLITION MECHANICAL - FIRST FLOOR PLAN
DM104	DEMOLITION MECHANICAL - SECOND FLOOR PLAN
DE101	DEMOLITION ELECTRICAL LIGHTING - BASEMENT FLOOR PLAN
DE102	DEMOLITION ELECTRICAL LIGHTING - FIRST FLOOR PLAN
DE103	DEMOLITION ELECTRICAL LIGHTING - FIRST FLOOR PLAN
DE104	DEMOLITION ELECTRICAL LIGHTING - SECOND FLOOR PLAN
DE105	DEMOLITION ELECTRICAL POWER - BASEMENT FLOOR PLAN
DE106	DEMOLITION ELECTRICAL POWER - FIRST FLOOR PLAN
DE107	DEMOLITION ELECTRICAL POWER - FIRST FLOOR PLAN
DE108	DEMOLITION ELECTRICAL POWER - SECOND FLOOR PLAN
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DP102	DEMOLITION PLUMBING - FIRST FLOOR PLAN
DP103	DEMOLITION PLUMBING - FIRST FLOOR PLAN
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CE103	DIMENSION CONTROL PLAN
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CE110	FIR STREET/U.S. BUSINESS 83 INTERSECTION LAYOUT
CE111	CIVIL DETAILS
CE112	CIVIL DETAILS
CE113	CIVIL DETAILS
CE114	CIVIL DETAILS
CE115	CIVIL DETAILS
CE116	CIVIL DETAILS
CE117	CIVIL DETAILS
CE118	TXDOT STANDARD DETAILS
CE119	TXDOT STANDARD DETAILS
CE120	TXDOT STANDARD DETAILS
CE121	TXDOT STANDARD DETAILS
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FRANK LAM & ASSOCIATES: VOLUME II

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S102	FOUNDATION PLAN
S103	SECOND FLOOR FRAMING PLAN
S104	MEZZANINE FRAMING PLAN
S105	ROOF FRAMING PLAN
S106	LIBRARY PLANS
S109	FRAMING DETAILS

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AS102	ENLARGED ARCHITECTURAL SITE PLAN
AS103	ENLARGED ARCHITECTURAL SITE PLAN
AE101	COMPOSITE BUILDING PLANS
AE102	BASEMENT FLOOR PLAN
AE103	COMPOSITE FIRST FLOOR PLAN
AE104	FIRST FLOOR - AREA 'A' (CORE)
AE105	FIRST FLOOR - AREA 'B' & 'C' (EAST & WEST WINGS)
AE106	FIRST FLOOR - AREA 'D' (LIBRARY)
AE107	COMPOSITE SECOND FLOOR PLAN
AE108	SECOND FLOOR PLAN - AREA 'A' (CORE)
AE109	SECOND FLOOR - AREA 'B' & 'C' (EAST & WEST WINGS)
AE110	COMPOSITE REFLECTED CEILING PLANS
AE111	BASEMENT REFLECTED CEILING PLAN
AE112	COMPOSITE FIRST FLOOR REFLECTED CEILING PLAN
AE113	FIRST FLOOR - AREA 'A' (CORE) - REFLECTED CEILING PLAN
AE114	FIRST FLOOR - AREA 'B' & 'C' (EAST & WEST WINGS) - REFLECTED CEILING PLAN
AE115	FIRST FLOOR - AREA 'D' -(LIBRARY) REFLECTED CEILING PLAN
AE116	COMPOSITE SECOND FLOOR PLAN - REFLECTED CEILING PLAN
AE117	SECOND FLOOR PLAN - AREA 'A' (CORE) - REFLECTED CEILING PLAN
AE118	SECOND FLOOR - AREA 'B' & 'C' (EAST & WEST WINGS) - REFLECTED CEILING PLAN
AE119	COMPOSITE ROOF PLAN
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AE304	BUILDING SECTIONS
AE305	BUILDING SECTIONS
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AE307	DETAILS
AE309	DETAILS
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AE404	ENLARGED CLASSROOM PLANS AND ELEVATIONS
AE405	<u>ENLARGED CLASSROOM PLANS AND ELEVATIONS</u>
AE406	ENLARGED CLASSROOM PLANS AND ELEVATIONS
AE407	ENLARGED PLANS AND ELEVATIONS
AE408	ENLARGED PLANS AND ELEVATIONS
AE501	ROOF DETAILS
AE502	ROOF DETAILS
AE503	ROOF DETAILS
AE504	WATERPROOFING DETAILS
AE505	WATERPROOFING DETAILS
AE506	WATERPROOFING DETAILS
AE510	CEILING DETAILS
AE511	CEILING DETAILS
AE512	CEILING AND EXPANSION JOINT DETAILS
AE601	DOOR & FRAME SCHEDULE
AE602	ELEVATED DOOR AND WINDOW TYPES
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AF101	FINISH SCHEDULE

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ME104	MECHANICAL - SECOND FLOOR PLAN
ME105	CHILLED WATER PIPING PLAN
ME106	ENLARGED CENTRAL PLANT AND MEZZANINE
ME201	MECHANICAL CHILLED WATER FLOW DIAGRAM
ME301	MECHANICAL CONTROL DRAWINGS
ME401	MECHANICAL SCHEDULES
ME402	MECHANICAL SCHEDULES
ME403	MECHANICAL SCHEDULES
ME404	MECHANICAL SCHEDULES
ME501	MECHANICAL DETAILS
ME502	MECHANICAL DETAILS
EL101	ELECTRICAL LIGHTING - BASEMENT FLOOR PLAN
EL102	ELECTRICAL LIGHTING - FIRST FLOOR PLAN
EL103	ELECTRICAL LIGHTING - FIRST FLOOR PLAN
EL104	ELECTRICAL LIGHTING - SECOND FLOOR PLAN
EP105	ELECTRICAL POWER - BASEMENT FLOOR PLAN
EP106	ELECTRICAL POWER - FIRST FLOOR PLAN
EP107	ELECTRICAL POWER - FIRST FLOOR PLAN
EP108	ELECTRICAL POWER - SECOND FLOOR PLAN
EP109	ELECTRICAL LIGHTING AND POWER MEZZANINE - SECOND FLOOR PLAN
EP110	ELECTRICAL - MECHANICAL AND PLUMBING EQUIPMENT LOCATION - BASEMENT FLOOR PLAN
EP111	ELECTRICAL - MECHANICAL AND PLUMBING EQUIPMENT LOCATION - FIRST FLOOR PLAN
EP112	ELECTRICAL - MECHANICAL AND PLUMBING EQUIPMENT LOCATION - FIRST FLOOR PLAN
EP113	ELECTRICAL - MECHANICAL AND PLUMBING EQUIPMENT LOCATION - SECOND FLOOR PLAN
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PL101	PLUMBING SEWER - BASEMENT FLOOR PLAN
PL102	PLUMBING SEWER - FIRST FLOOR PLAN
PL103	PLUMBING SEWER - FIRST FLOOR PLAN
PL104	PLUMBING SEWER - SECOND FLOOR PLAN
PL105	PLUMBING HW/CW - BASEMENT FLOOR PLAN
PL106	PLUMBING HW/CW - FIRST FLOOR PLAN
PL107	PLUMBING HW/CW - FIRST FLOOR PLAN
PL108	PLUMBING HW/CW - SECOND FLOOR PLAN
PL201	PLUMBING ROOF - FLOOR PLAN
PL301	PLUMBING DETAILS
PL401	PLUMBING SCHEDULES

END OF LIST OF DRAWINGS

Pharr – San Juan – Alamo

C-5149144
Independent School District

PURCHASING DEPARTMENT



Larry Doeppenschmidt, Purchasing Coordinator

INVITATION TO SUBMIT BID / PROPOSAL AND SPECIAL CONDITIONS:

Competitive Sealed Bid / Proposal are being solicited for the merchandise, supplies, services and / or equipment as set forth in this bid / proposal invitation. Bid / Proposal are being solicited on behalf of all present and future members of the District.

Sealed bid / proposal can be hand-delivered in to the Business Office / Purchasing Department of the Pharr-San Juan-Alamo Independent School District at 601 E. Kelly Street Room # 249, or can be mailed to P.O. Box 769, Pharr, Texas 78577. All bid / proposal must be received at 601 E. Kelly Street Room # 249, Pharr, Texas 78577 / **ATTN: PURCHASING DEPARTMENT by 4:00P.M., WEDNESDAY, MARCH 24, 2010,** at which time bid / proposal will be opened in the PSJA Business Office / Finance Department Conference Room # 205.

Bid / Proposal must be plainly marked on the outside of the envelope **PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) – PHASE 1 RENOVATIONS AND ADDITIONS COMPETITIVE SEALED BID #09-10-006.**

In case of mailed bid / proposal or any correspondence concerning the bid / proposal, the district will not be held responsible for missent, lost or late mail. Any bid / proposal not delivered directly to the Purchasing Department by the deadline for submitting the bid / proposal, will be considered not timely filed and therefore, will be disqualified.

PRE-BID CONFERENCE: There will be a "Pre-Bid Conference" conducted at the PSJA Administration Building / Finance Department – Conference Room # 205, located at 601 E. Kelly, Pharr, Texas 78577, on **TUESDAY, MARCH 9, 2010 @ 2:30P.M.**

NO FAXED BID / PROPOSAL WILL BE ACCEPTED. LATE OR INCOMPLETE BID / PROPOSAL WILL BE CONSIDERED NON-RESPONSIVE / NON-CONFORMING. BID / PROPOSAL MUST BE SUBMITTED IN A SEALED ENVELOPE AND MARKED PROPERLY WITH THE BID / PROPOSAL INVITATION NUMBER, PRODUCT CATEGORY, OPENING DATE AND TIME.

****It is the vendor's responsibility to view the web page regularly, or prior to submitting a response, to ensure that no addendum or additional information has been issued for the solicitation. Please visit our website at <http://psja.schoolfusion.us>.****

Bid / Proposal may be withdrawn prior to the opening date and time, but only in accordance with Section 17 of the General Terms and Conditions Document entitled "Withdrawal or Modification of Bid".

No Federal or State Tax is to be included in the bid / proposal price.

All prices bid/proposed must be F. O. B. Pharr, Texas.

Sincerely,

Larry Doeppenschmidt

Larry Doeppenschmidt,
Purchasing Coordinator

It is the policy of the Pharr-San Juan-Alamo ISD not to discriminate on the basis of sex, disability, race, color, religion, national origin or age. PSJA Administration Office / P.O. Box 769 / 601 E. Kelly / Pharr, Texas 78577 / Telephone (956) 354-2000 / Fax (956) 783-2257

C-5149-14-H
PHARR-SAN JUAN-ALAMO I.S.D.

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) –
PHASE 1 RENOVATIONS AND ADDITIONS COMPETITIVE SEALED BID # 09-10-006
BID OPENING: MARCH 24, 2010 @ 4:00P.M.

A. General Provisions

1. Bid Preparation and Submission Procedures:

Sealed bids will be received until the deadline indicated in the Notice of Invitation to Bid. Each bid must be submitted in a SEALED opaque envelope (or other non-transparent package or container). The outside of the bid envelope (or other package or container) must bear the following information in clear and legible form:

- a) In the upper left-hand corner: print the full name and address of the bidding entity, and the name and telephone number, including the area code, of the person to contact with questions about the bid submission, and
- b) in the lower left-hand corner: "SEALED BID," the bid name, bid number, and submission deadline indicated on the Notice of Invitation to Bid.

Bids may be submitted by U. S. Mail, common carrier, or other courier or delivery service, or by hand delivery. If forwarded by mail or other courier or delivery service, the sealed bid envelope, identified as indicated above, should be enclosed in another envelope addressed as specified below. The Pharr-San Juan-Alamo I.S.D. (hereinafter called "District") will not be responsible for bids or related correspondence that are missent, misdelivered, or misplaced. The date/time record of the Purchasing Department will be the official time of receipt.

Bids should be addressed and delivered to the following:

PHARR-SAN JUAN-ALAMO. I.S.D.
PURCHASING DEPARTMENT
P.O. BOX 769 / 601 E. KELLY, ROOM # 249
PHARR, TX 78577
ATTN: LARRY DOEPPENSCHMIDT
(956) 354-2000 / TELEPHONE NUMBER
(956) 783-2257 / FAX NUMBER
ldoepvenschmidt@psja.k12.tx.us - EMAIL ADDRESS

Bids which are opened prior to the bid opening because of failure to adhere to the above addressing and identification criteria will not be considered and will not be returned. Bids received after the deadline will not be accepted for consideration, and will be returned unopened. Bids received in an unsealed condition will not be considered and will not be returned. **Faxed bids or related communications will not be accepted.**

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PHARR-SAN JUAN-ALAMO I.S.D.

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) -

PHASE 1 RENOVATIONS AND ADDITIONS COMPETITIVE SEALED BID # 09-10-006

BID OPENING: MARCH 24, 2010 @ 4:00P.M.

A representative of the bidding entity who is authorized to enter into contracts on behalf of the bidding entity must manually sign bids in ink. The person signing the bid must indicate his/her title along with signature. Bids received without proper signature will not be considered.

Bidders must return all original documents required in the bid response. Bidders should retain photocopies for their files. Any change made to any written response on any of the bid documents must be made in ink by marking through the original entry and clearly entering the new information alongside the change. Changes must not be made with correction fluid. All changes must be "initialed" by the person making the change, and the name of the person who initialed the change must be noted in a footnote on the same page containing the correction. Failure to return any document or information requested as part of the bid response may result in the rejection of the entire bid.

Bidders or their authorized representatives are expected to fully inform themselves as to the terms, conditions, requirements and specifications of this Bid Invitation before submitting bids. Failure to do so will be at the bidder's own risk. The law makes no allowance for errors of omission or commission on the part of bidders; furthermore, the bidder cannot secure relief on the plea of error or ignorance concerning any requirement included in the Bid Invitation.

Vendors who do not bid on this particular bid, but who want to remain on our bid list for future opportunities in this product category should complete, sign, and submit the signature sheet entitled "NO BID REPLY FORM" indicated on the face of the sheet.

Bidders are welcome to attend the bid opening at the date and time indicated in the Notice of Invitation to Bid, but bidder presence is not required, and no weight or other consideration toward any award decision will be given to any bidder's attendance or absence at the bid opening. Recaps of the details of the bids received will be available to any interested party upon WRITTEN request. The form and content of the bid recaps will be at the sole discretion of the District. They may be in electronic form.

2. Statement of Inclusion / Applicability:

These General Terms and Conditions are applicable to all Bid Invitations issued by the District, and by this inclusion, they become an integral part of any contract which is awarded, or purchase order which is issued in association with this Bid Invitation.

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PHARR-SAN JUAN-ALAMO I.S.D.

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) –
PHASE 1 RENOVATIONS AND ADDITIONS COMPETITIVE SEALED BID # 09-10-006
BID OPENING: MARCH 24, 2010 @ 4:00P.M.

3. General:

The section titles contained in this General Terms and Conditions document are for convenience and reference only, and in no way define, describe, extend, or limit the scope or intent of the provisions of any section of this document.

Unless otherwise stated, any listing of factors or criteria in this document does not constitute an order of preference or importance.

Unless otherwise specified, you may bid on any or all items. Answer all questions related to each item on which you wish to bid. For items you do not wish to bid on, you may simply leave the questions for that item unanswered (blank), or you may enter "No Bid" or "N/B". Items will be considered individually and awards will be made on each item independently, except for "related" items for which "compatibility" will be an element of consideration. In such cases, small groups of items will be considered as a unit.

Bidders who do not wish to respond to this Bid Invitation, but who would like to remain on our bidders list for this commodity category should sign and return the "Notice of Invitation to Bid" form with "NO BID" indicated on the face of the form. Failure to adhere to this procedure may result in removal of the bidder's name from our bidders list.

Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area firms are especially invited to submit bids.

The term "contract," as used in this document, means the comprehensive collection of:

- a) this General Terms and Conditions document, including any attachments and or amendments thereto,
- b) the Item Specifications included in the Bid Invitation and any subsequent addenda thereto,
- c) the bidder's signed Notice of Invitation to Bid sheet, which must be completed, signed by an authorized representative of the bidding entity, and returned with the bidder's response, along with
- d) this ENTIRE Terms and Conditions document and all other forms and information collection pages included with this Bid Invitation,

C-5149-14-H

PHARR-SAN JUAN-ALAMO I.S.D.

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) -

PHASE 1 RENOVATIONS AND ADDITIONS COMPETITIVE SEALED BID # 09-10-006

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- e) the bidder's entire response to the Bid Invitation,
- f) the bidder's Notice of Award document,
- g) and any additional terms, conditions, or instructions contained in each individual Purchase Order issued by the District.

Collectively, these documents represent the entire agreement between the parties.

4. Contract Time Period:

The time period for purchases covered by any contract resulting from any award under this bid are to remain firm for one (1) year from the date of award or as stated in the Notice of Invitation to Bid. Unless otherwise indicated in these General Terms and Conditions, all bid pricing will be firm through the entire contract period.

In the event this contract expires before another bid is awarded, upon the mutual written agreement of the parties, this contract may be extended on a month to month basis beyond the expiration of the contract time period.

The transfer, assignment, or subcontracting of contracts is prohibited, and the bidder agrees not to sell, assign, transfer, convey, or subcontract any portion of any contract resulting from this bid invitation without the prior written consent of the District.

5. Addendum:

In the event that any changes to this Bid Invitation occur subsequent to the mailing or other delivery of the original Bid Invitation, the changes or corrections to this Bid Invitation will be made by addendum, and any updated information contained in any addendum will prevail over the information contained in the original Bid Invitation or any previous addendum. Each addendum will be mailed to all entities who are known to have received a copy of this Bid Invitation. The Purchasing Department is the sole authority for the issuance of any addendum related to this bid. Any communications from any person or entity other than the Purchasing regarding any matters related to this bid are invalid and will have no influence on this Bid Invitation.

Each addendum must be acknowledged on the acknowledgment form provided with the addendum. Any required acknowledgment form must be submitted along with the submission of any bid response.

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6. Specifications:

Catalog numbers, brand names, or manufacturer's product or reference numbers used in the item specifications are intended to be descriptive, not restrictive. These references, as well as "approved brands" listed, are intended to identify and indicate the type of product being sought, and establish the level of quality desired. If any conflict exists in the item specifications between the product descriptions and any brand names or model or reference numbers used, the product descriptions will override the brand names or model number references.

In most cases, bids on brands of equivalent nature and quality will be considered, provided they are regularly produced products from a reputable manufacturer. However, in some cases, the District may find it advantageous to standardize equipment and/or supplies by manufacturer in order to achieve efficiencies in procurement, repair, and operation, to match existing stock, or to satisfy other requirements. In these cases, preference will be given to the specific products identified as "approved brands," especially if all other evaluation factors are deemed to be equal. For this reason, where specific brands or models are identified, it is preferable for the bidder to bid on the exact item specified, in addition to an alternate brand or model where desired.

All bids must identify the manufacturer, brand, model, etc. of the article being offered. For bids on "or equal/equivalent" items other than any "approved brand" specified, the bidder must supply a complete description and sufficient data for the District to properly analyze the product being bid. Samples may be requested for items other than "approved brands."

If the bidder fails to identify the manufacturer, brand, model, etc. for any item being bid on, the District will assume the bidder is bidding on the exact brand and model identified in the specification, and if awarded, the vendor will be required to furnish the exact brand names, models, etc. as specified. Substitutions will not be allowed.

The apparent silence of the specifications as to any detail or the apparent omission from any specification of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices shall prevail. All interpretations of the specifications shall be made on the basis of this statement.

If you discover or suspect an error in the item specifications in this Bid Invitation, please note it as part of your bid response. We will attempt to correct errors for future Bid Invitations.

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7. Bid Evaluation and Award:

All bids received in response to this Bid Invitation which are submitted in accordance with the instructions and restrictions contained in section #1 of this General Terms and Conditions document entitled "Bid Preparation and Submission Procedures" will initially be considered for award; however, initial consideration of any bid will not constitute an assessment of its meeting the necessary qualifications, and any bid may be disqualified at any time during the process of evaluating bids for failure to meet any other terms or conditions contained anywhere else in the Bid Invitation.

The District reserves the right to waive any or all bidding irregularities, formalities, or other technicalities, to be the sole and independent judge of quality and suitability of any products offered, and may accept or reject any bid in its entirety, or may reject any part of any bid without affecting the remainder of that bid, and may award the individual items on this bid in any combination or in any way to best serve the interests of the District as it perceives those interests to be in its sole discretion.

It is not the policy of the District to purchase on the basis of low bid price alone. All bid items are subject to evaluation and approval. In evaluating the bids received and determining to which bidder(s) (if any) to award a contract, the District may consider any combination of the following criteria: (1) the purchase price; (2) the reputation of the vendor and of the vendor's goods and/or services; (3) the quality of the vendor's goods and/or services; (4) the extent to which the goods and/or services meet the needs of the District; (5) the vendor's location and service and delivery capabilities; (6) the vendor's past performance with the District; (7) student preferences; (8) the warranties offered and the bidder's warranty service history; (9) the probability of continuous availability of the goods and/or services offered; (10) the impact on the ability of the District to comply with any applicable laws or rules, including those relating to the utilization of historically underutilized businesses; (11) the total long-term cost to the District to acquire the vendor's goods and/or services; and (12) any other relevant factor that a public or private entity could consider in selecting a vendor. For this bid, in addition see criteria and weights provided in Section 41.

It is understood that the District, through its management may use all means at its collective disposal to evaluate the bids received on these criteria, and the final decision as to the best overall offer, both as to price and to suitability of the products and/or services offered to fit the needs of the District, will rest solely with the Board of Trustees of the District.

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Unless otherwise indicated in this bid invitation, "all or nothing" bids are not acceptable and will be rejected. The bidder must be willing to accept a partial award for any combination of the items and/or services bid, and must be willing to share the business with any other successful bidders.

The successful bidder(s) will be notified by "Notice(s) of Award" issued by the District.

The District reserves the right to require a performance bond as it is deemed necessary.

B. Performance

8. Quantities:

Quantities are the best estimate of anticipated needs available at the time of publication of this Bid Invitation, but the accuracy of these estimated quantities may be affected by numerous factors including, but not limited to, budgetary adjustments, student participation, availability of government commodities or other subsidies, changing market forces, and unintentional errors or omissions. Actual needs may be greater or less than the estimated quantities provided.

Unless otherwise specified by the bidder, the District will be allowed to purchase up to twenty-five percent (25%) more or up to twenty-five percent (25%) less than the estimated quantities for any item and still obtain the item at the bid price.

Vendors will be notified of significant changes in the estimated quantities as they become known throughout the contract period.

Successful bidders will be required to monitor consumption rates and bring any exceptions to the attention of the District management as soon as possible. Except for conditions discussed within section #23 of this document entitled "Force Majeure," vendors are required to maintain sufficient inventories to cover the needs of District with only minimal, occasional, and temporary inability to provide products on a timely basis. Vendors at the close of the contract period agree not to hold the District liable for any inaccuracies in estimated quantities or for any products on hand.

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9. Packaging:

Unless otherwise provided for in this Bid Invitation, all products supplied under any contract resulting from this Bid Invitation must be packaged in containers that are new, appropriately designed for the products involved, and sturdy enough to protect the products involved in loading, transit, unloading, and storage. Any products supplied under any contract resulting from this Bid Invitation for which palletizing is appropriate must be delivered on standard 48" 4-way pallets in good, serviceable condition.

10. Pricing:

All "Line Item" Bids must be for a specific price for the unit of measure specified for that item. The bidder is responsible for clearly noting any differences in proposed packaging and/or units of measure in the bid response, and the bidder shall understand that if the item in question is awarded to the bidder, the quantity specified for that item will be adjusted to achieve an approximately equivalent amount of the product.

In cases where another price is requested for comparison purposes (e.g., "portion price" or "price per ounce"), such price is for comparison purposes only. Purchases will be made in increments of the unit of measure specified. In the case of any discrepancy or error in comparison price calculations, the price for the unit of measure specified will prevail. Excessive errors in comparison price calculations will be sufficient grounds for rejection of the entire bid.

"Discount from Catalog" Bid Invitations are percent of discount offered of list price for items in the bidder's published catalog that must be supplied with the bid response.

"Cost Plus" bids will not be accepted unless otherwise requested in this Bid Invitation. Bid prices must be firm for acceptance for at least 90 days from bid opening date, unless otherwise specified in this Bid Invitation or in the bidder's response.

If during the term of the contract, a successful bidder's net prices to any or all of its other customers in similar market circumstances for any of the same items awarded under this Bid Invitation are reduced below the contracted price, it is understood and agreed that the benefits of such price reduction shall be extended to all the District.

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11. Sales Tax:

The District is a public jurisdiction that is exempt from sales, excise, and use taxes. Tax Exemption Certificates will be provided upon individual requests from the vendor. Unless otherwise specified in this Bid Invitation, sales tax will not be included in any bid response or invoice submitted by any vendor unless the vendor has requested a Tax Exemption Certificate from the District in writing and failed to receive the same within a reasonable period of time. The Limited Sales, Excise, and Use Tax Laws recognize the inclusion of tax exemption information as part of a purchase order document to be as binding as if it had been submitted separately, and by responding to this Bid Invitation, the bidder agrees to accept tax exemption information in such form.

12. Delivery and Transportation:

Unless otherwise noted in these General Terms and Conditions or the Purchase Order, or unless prior approval has been obtained from the District, all deliveries shall be made between the hours of 8:00 A.M. through 11:30 A.M. and 1:30 P.M. through 3:30 P.M. (Monday through Friday, holidays excepted).

Unless otherwise noted in this Bid Invitation or in the Purchase Order, the bidder must deliver products awarded under this Bid Invitation within ten (10) working days after receipt of a Purchase Order. The vendor must immediately notify the primary contact person at the location placing the order, by telephone and/or fax, if any delays occur. The location placing the order will have the option to cancel the order if it is unable to accept the delay. At the discretion of the location placing the order, items received after the due date, for which the location has not been notified regarding the delay, may be returned at the vendor's expense with no penalty to the District.

Repeated failure to meet delivery dates will constitute a breach of contract by the vendor, and may result in the initiation of actions covered in section #22 of this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and the associated financial impacts attached thereto, as well as jeopardize any future business from the District.

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All freight, delivery, and handling charges are the responsibility of the bidder, and all bid prices must be quoted freight prepaid, F.O.B. destination, and shall include all freight, delivery, and handling charges, including unloading and inside deliveries where required. This bid package includes a summary listing of the location of the District their quantities (if this is a line-item bid), and the number of delivery locations at the time this Bid Invitation was mailed.

Cartons must be marked as indicated on the Purchase Order. Each shipment must include a packing list and waybill or delivery ticket.

If the vendor is delivering products out of more than one warehouse or distribution center, all warehouses or distribution centers involved in the distribution plan MUST carry or have timely access to all awarded items and MUST be able to respond to orders in a timely manner. Unless otherwise specified in this Bid Invitation, product substitutions are not allowed, and the involvement of multiple distribution centers will not be construed as to alter the restrictions against product substitutions. In the event the vendor uses multiple distribution centers, the District will have ONE CONTACT PERSON for overall contract management relative to any contract resulting from any award under this Bid Invitation, and the District WILL NOT be required to deal with multiple vendor contacts for overall contract management.

When the needs of the District require immediate response, the right to pick up products awarded under this Bid Invitation on an "over the counter" basis must be available for the majority of the items awarded to a bidder. Under such circumstances, the District's personnel may pick up products at the vendor's warehouse location at the bid price with no minimum purchase required.

Except for items that have hidden defects or that do not meet specifications, title to all products shall pass to the District upon receipt and acceptance at the time of delivery.

13. Quality:

Unless otherwise indicated in the Bid Invitation, all items bid must be new and in first class condition and must conform to the highest standards of manufacturing practice, including containers suitable for shipment and storage. Unless otherwise requested, the District will not accept "factory seconds" or otherwise inferior goods, and reserves the right to return any such item(s) within thirty (30) days of receipt at vendor's expense.

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All electrical items must meet all applicable OSHA standards and regulations, and must bear the appropriate listing from US, FMRC, NEMA, or U L Laboratories.

Materials Safety Data Sheets (MSDS) on chemicals or any other products customarily requiring MSDS Sheets must be provided for each ordering location. MSDS Sheets must be delivered along with the first shipment to each individual location within the contract period. Additional MSDS Sheets must be provided in a timely manner at no charge upon request from any participating location.

14. Product Inspection, Testing, and Defective Items:

All products supplied under this contract should arrive in the best possible condition and will be subject to inspection, testing, and approval by the District. Tests may be performed on any samples submitted as part of the bidding or evaluation process, or on samples taken from any regular shipment. In the event any product tested fails to meet or exceed all requirements of the bid item specifications or the General Terms and Conditions of the Bid Invitation, the cost of the samples used and the cost of the testing shall be borne by the supplier, and upon notification to the vendor, the defective product(s) will be picked up and replaced by the vendor within five (5) business days or on the next service date, whichever is sooner, without charge for the replacement(s) or delivery. Defective products which are not picked up and replaced by the vendor as outlined above may be disposed of by the District without expense to the District. Repeated incidents of delivery of products that fail to pass product inspection and/or testing by a vendor will warrant cancellation of the contract in addition to the remedies outlined above. Furthermore, future business from the District could be jeopardized.

Products damaged in shipment will be considered as defective products and will be subject to the same remedies outlined above.

The failure of any consumable products (food items) to meet specifications or acceptable chemical or bacterial levels may result in cancellation of the contract in addition to the remedies outlined above. Furthermore, future business from the District could be jeopardized. All products in the District at the time of any such cancellation must be picked up and credit issued to the District.

Latent defects discovered after delivery and acceptance of any products may result in revocation of the acceptance.

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The Administration and staff of the District shall have access to any supplier's place of business during normal business hours for the purpose of inspecting merchandise.

15. Samples:

If samples are needed for bid evaluation, they will be requested as part of the Bid Invitation or in a separate communication. Unless otherwise indicated in the request for the samples, the samples must be received by the requestor within 72 hours from the time of the request.

Samples must be furnished free of expense to the District. Samples must be labeled with the District's Bid Name and Number, Item Number, Product Identification Number(s), and the name of the bidding entity. Do not include samples with the bid response unless otherwise instructed in the Bid Invitation.

All samples will be retained by the District for a sufficient length of time for proper evaluation. If not destroyed or consumed during examination or testing, samples will be returned to the bidder at the bidder's expense, but only upon written request submitted with the samples at the time the samples were submitted. However, notwithstanding the above, samples from the successful bidder may be retained permanently by the District for the purpose of determining that the quality and workmanship of the delivered items are comparable to the samples. The District shall incur no liability for any samples that are damaged, destroyed or consumed during examination or testing.

Failure by any bidder to submit samples when requested will result in the items in question not being considered for award to that bidder.

16. Warranties:

By submission of a bid, the bidder warrants that the bidder is an authorized dealer, distributor, or manufacturer for the product(s) being offered, that all items being bid conform to the specifications for which the items are being offered, and that all items supplied under any contract related to this bid invitation will be free from all defects in material, workmanship, and title.

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A minimum of ninety (90) days product guarantee or the manufacturer's standard commercial warranty, whichever is greater, shall apply to all products purchased under this Bid Invitation. This warranty shall provide for replacement of defective merchandise, parts, and labor, and shall include pick-up of the defective merchandise from the specified District's location and delivery of the replacement(s) to the same location. The warranty shall be effective from the date of acceptance of the merchandise.

17. Withdrawal or Modification of Bid:

Subject to the restrictions discussed below, the District will consider a WRITTEN request from any bidder that the bidder be allowed to withdraw any bid submitted, but ONLY IN ITS ENTIRETY, and ONLY UNTIL THE DUE DATE AND TIME FOR BID SUBMISSION as stated in the Notice of Invitation to Bid included with this Bid Invitation. A representative of the bidding entity who is authorized to enter into contracts on behalf of the bidding entity must manually sign any request for the withdrawal of any bid in ink, and the person signing the request must indicate his/her title along with his/her signature. No bid may be withdrawn after the date and time that bids are due as specified in the Notice of Invitation to Bid. Only bids that have been submitted consistent with the instructions relating to packaging and labeling of the bid will be considered for withdrawal.

If there is any question in the mind of the Administration or staff of the District regarding the identity of the bid or the identity of the bidder relating to any request for the withdrawal of any bid, the District will refuse to allow the withdrawal of the bid. Withdrawal of any bid allowed by the District will require the completion and signature of a written receipt by the bidder's representative satisfactory of the District before the bid will be released. The decision of the Administration or staff of the District relating to any matters concerning bid withdrawal will be final.

If a bidder requests to withdraw a bid and the District allows the withdrawal of the bid, the bidder may resubmit the bid, or submit a new bid, up until the due date and time for bid submission as stated in the Notice of Invitation to Bid included with this bid invitation, provided any new submission meets all the qualifications of bid submission included in these General Terms and Conditions.

If a bidder resubmits a bid that was withdrawn and makes changes to any document in the bid package, an authorized agent of the bidder must initial all alterations made to any bid document.

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All bids in the possession of the District at the time bids are due shall be deemed final, conclusive, and irrevocable, and no bid shall be subject to withdrawal, amendment, or correction after the due date and time for bid submission as stated in the Notice of Invitation to Bid included with this bid invitation

18. Substitutions:

The District will not accept any substitutes after item(s) have been awarded as specified, unless such substitutions are deemed to be in the best interest of the District, and unless prior agreements have been reached and reduced to writing regarding such substitutions. Substituting without the prior approval of the location placing the order will constitute a breach of contract by the vendor which may result in the initiation of actions covered in section #22 of this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and the associated financial impacts attached thereto, and may jeopardize any future business from the District.

19. Deviations from Item Specification or General Terms and Conditions:

Any and all limitations, exceptions, qualifications, special conditions, or deviations from these General Terms and Conditions or any of the item specifications, including the offering of any alternate to the "approved brand and/or model" (where identified) must be clearly noted in detail by the bidder at the time of submission of the bid. The absence of such limitations, exceptions, qualifications, special conditions, or deviations being submitted in writing with the bidder's response will hold the bidder accountable to the District to perform in strict accordance with all these General Terms and Conditions and all the item specifications as written, including any "approved brands and/or models" identified. The bidder should be aware that the submission of any such limitations, exceptions, qualifications, special conditions, or deviations with the bid response may place the bidder at a competitive disadvantage or otherwise prevent the District from considering the bid on the affected item(s).

Any deviation from any of the item specifications, including the delivery of any product other than the specific brand and model of the product awarded, will be grounds for rejection of the product(s) when delivered, and will expose the vendor to the remedies identified in section #22 of this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and may jeopardize future business from the District.

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20. Contracts and Purchase Orders:

A response to this Bid Invitation is an offer to contract with the District based upon the Item Specifications and the General Terms and Conditions contained in the Bid Invitation. Bids do not become contracts unless and until they are both accepted by the District through an Award Notice to the Bidder, and put into effect by the issuance of a Purchase Order(s) signed by an authorized representative of the District. Purchase orders will be mailed to the vendor. All deliveries and financial transactions will occur directly between the vendor and the District

This contract shall collectively include (1) the General Terms and Conditions and the Item Specifications included in the Bid Invitation and any subsequent addenda thereto, (2) the bidder's signed Notice of Invitation to Bid sheet and any other data collection sheets included with the Bid Invitation, (3) the bidder's entire response to the Bid Invitation, (4) the bidder's Notice of Award document, (5) and any additional terms, conditions, or instructions contained in each individual Purchase Order. The contract shall be interpreted by and governed under the laws of the State of Texas.

21. Invoices, Packing Lists, and Payment:

Packing Lists or other suitable shipping documents must accompany each shipment and must identify (a) the name and address of the vendor, (b) the name and address or delivery location of the receiving entity, (c) the Purchase Order Number, and (d) detailed descriptive information identifying the item(s) delivered, including quantity, item number, product code, item description, number of containers, etc.

All Invoices must reflect (a) the name and address of the vendor, (b) the name and address or delivery location of the receiving entity, (c) the appropriate Purchase Order Number, and (d) detailed descriptive information identifying the item(s) delivered, including quantity, item number, product code, item description, etc., and must include a properly signed copy of the delivery receipt. Invoices must be mailed directly to the ordering location of the District.

The locations of the District will not be held responsible for any products delivered or invoiced without a valid current Purchase Order Number.

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The District does attempt to remind its locations about the importance of following prompt payment policies when dealing with its vendors. Notwithstanding the above, the payment terms stated on each individual Purchase Order will be the controlling factor in the determination of payment terms. Each Invoice should include the vendor's normal payment terms in the event that any Purchase Order fails to address the subject.

In any case, payment will be made only after satisfactory delivery and acceptance of merchandise in good order, including the necessary documentation indicated above, and only after receipt of a correct Invoice from the vendor, including the necessary information indicated above.

At the option of the District, invoices with incorrect prices or other errors or inconsistencies will not be paid until corrected, whether by credit memo(s) or issuance of a corrected invoice. At the option of the District location invoices may be corrected upon receipt and payment may be made based upon their corrections.

22. Remedies for Non-Performance of Contract, and Termination of Contract:

If the vendor cannot comply with the terms and conditions in fulfilling its contract as anticipated, the vendor must supply the same products or services contracted from other sources at the contract price. The vendor's delay in the above will constitute the vendor's material breach of contract, whereupon the District may terminate the vendor's contract for cause as provided by the remainder of this section.

Unless this contract is extended by mutual agreement of the parties on a month to month basis beyond the expiration of the contract time period as stated in the Notice of Invitation to Bid, this contract shall terminate upon the expiration of the contract term as stated in the Notice of Invitation to Bid.

If any delay or failure of performance is caused by a Force Majeure event as described in section #23 of this General Terms and Conditions document entitled "Force Majeure," the District may, in its sole discretion, terminate this contract in whole or part, provided such termination follows the remaining requirements of this section.

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Except as otherwise provided for within the General Terms and Conditions of this document, this contract may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given (1) at least ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) working days, to rectify the defects in products or performance, prior to termination.

Valid causes for termination of this contract will include, but are not limited to:

- a) the vendor's failure to adhere to any of the provisions of the General Terms and Conditions of this Bid Invitation,
- b) the vendor delivering any product(s) that fails to meet the Item Specifications included in this Bid Invitation relating to the awarded product(s)
- c) the vendor delivering any substitution(s) of product(s) different than those originally bid and awarded without the prior written approval of the District placing the order,
- d) the vendor's failure to meet the required delivery schedules as identified in the contract documents, or
- e) the vendor's violation of any other provision contained within these General Terms and Conditions or any attachment thereto which provides for contract termination as a remedy.

Notwithstanding anything contained in this section, in the event of the vendor's breach of any provision in this contract, the District reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in its best interest including, but not limited to, the purchase of other products of like type and quality from other sources in the open market. In the event the District elects to purchase other products from other sources, the District will invoice the vendor for any increased costs to the District, and the vendor agrees, by submission of a bid response, to promptly pay any such charges involved.

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PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) -

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In the event the District terminates this contract, in whole or in part, for any reason provided for within the contract, the District reserves the right to award the canceled contract, or any portion thereof, to the next lowest or best bidder as it deems such award to be in the best interest of its members.

Any contract termination resulting from any cause other than a Force Majeure event will be deemed valid reason for not considering any future bids from the defaulting vendor. In the performance of this contract, time is of the essence and these General Terms and Conditions are of the essence.

23. Force Majeure:

The term Force Majeure shall include, but is not limited to, governmental restraints or decrees, provided they affect all companies in the vendor's industry equally and are not actions taken solely against the vendor; acts of God (except natural phenomena, such as rain, wind or flood, which are normally expected in the locale in which performance is to take place); work stoppages due to labor disputes or strikes; fires; explosions; epidemics; riots; war; rebellion; or sabotage.

The parties to this contract will be required to use due caution and preventive measures to protect against the effects of Force Majeure, and the burden of proving that Force Majeure has occurred shall rest on the party seeking relief under this section. The party seeking relief due to Force Majeure will be required to promptly notify the other party in writing, citing the details of the Force Majeure event, and will be required to use due diligence to overcome obstacles to performance created by the Force Majeure event, and shall resume performance immediately after the obstacles have been removed, provided the contract has not been terminated in the interim.

Delay or failure of performance, by either party to this contract, caused solely by a Force Majeure event shall be excused for the period of delay caused solely by the Force Majeure event, provided the affected party has promptly notified the other party in writing. Neither party shall have any claim for damages against the other resulting from delays caused solely by Force Majeure.

Neither the District nor its location will be responsible for any costs incurred by the vendor because of the Force Majeure event unless the District has requested, in writing, that the vendor incur such costs in connection with any delay or work stoppage caused by the Force Majeure event, and the District has agreed in such writing to incur such additional costs.

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PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) -

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Notwithstanding any other provision of this section, in the event the vendor's performance of its obligations under this contract is delayed or stopped by a Force Majeure event, the District shall have the option to terminate this contract in accordance with section #22 of this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination." Furthermore, this section shall not be interpreted as to limit or otherwise modify any of the District's rights as provided elsewhere in this contract.

24. Non-Collusion Certification:

By signing this bid, the bidder certifies that, to the best of his/her knowledge:

- a) neither the bidder nor any business entity represented by the bidder has received compensation for participation in the preparation of the item specifications or the General Terms and Conditions related to this Bid Invitation,
- b) this bid or proposal has been arrived at independently and is submitted without collusion with any other bidder, with any competitor or potential competitor, or with any other person or entity to obtain any information or gain any special treatment or favoritism that would in any way limit competition or give any bidder an unfair advantage over any other bidder with respect to this bid,
- c) the bidder has not accepted, offered, conferred, or agreed to confer, and will not in the future accept, offer, confer, or agree to confer, any benefit or anything of value to any person or entity related to the District or any of its locations in connection with any information or submission related to this bid, any recommendation, decision, vote, or award related to this bid, or the exercise of any influence or discretion concerning the sale, delivery, or performance of any product or service related to this bid,
- d) neither the bidder, nor any business entity represented by the bidder, nor anyone acting for such business entity, has violated the Federal Antitrust Laws or the antitrust laws of this State with regard to this bid, and this bid or proposal has not been knowingly disclosed, and will not be knowingly disclosed to any other bidder, competitor, or potential competitor prior to the opening of bids or proposals for this project,
- e) no attempt has been or will be made to induce any other person or entity to submit or to not submit a bid or proposal.

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The person signing this bid or proposal certifies that he/she has fully informed himself/herself regarding the accuracy of the statements contained in this certification.

25. Assignment – Delegation:

No responsibility or obligation created by this contract shall be assigned or delegated by the vendor without written permission from the District. Any attempted assignment or delegation by the vendor shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

26. Certifications Regarding Legal, Ethical, and Other Matters:

By signing this bid, the bidder certifies that:

- a) Bidder is to refrain from contacting a member of the Board of Trustees from the date of bid advertisement until after contracts are awarded by the Board. Board Members are not to be contacted by agents or others on behalf of any bidder or subcontractor. District administration is charged with evaluating bids, contacting references, and gathering any other relevant information in order to provide a recommendation to the Board of Trustees. Any attempt to circumvent the district's evaluation process as put forth in the bid documents may result in disqualification of a bidder.
- b) he/she understands that the district may by written notice to the Seller, cancel this contract without liability to Seller if it is determined by the District that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of the District with a view toward securing a contract or securing favorable treatment with determinations with respect to the performance of such contract. In the even this contract is canceled by the District pursuant to this provision, the District shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
- c) he/she has read and understands all the General Terms and Conditions in this document, and agrees to be bound by them, and is authorized to submit bids on behalf of bidder,
- d) bidder has noted any and all relationships that might be conflicts of interest and included such information with his/her bid response,
- e) the bid submitted conforms with all item specifications, these General Terms and Conditions, and any other instructions, requirements, or schedules outlined or included in this Bid Invitation,

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- f) If this bid is accepted, in whole or in part, the bidding entity will furnish any item(s) awarded to them under this Bid Invitation to the District at the price bid, and in accordance with the item specifications and the terms and conditions contained in this Bid Invitation,
- g) the bidding entity has, or has the ability to obtain, such financial and other resources, including inventories, as may be required to fulfill all the responsibilities associated with this bid,
- h) the bidding entity has a high degree of integrity and business ethics, and a satisfactory record of performances, and has not been notified by any local, state, or federal agency with competent jurisdiction that its standing in any matters whatsoever would preclude it from participating in this bid, it would in no other way whatsoever be disqualified to bid or receive any award or contract related to this bid, and the bidder will comply with any reasonable request from the District to supply any information sufficient to substantiate the bidding entity's ability to meet these minimum standards,
- i) concerning paragraph "(h)" above, the bidding entity has identified and disclosed in this written bid response any and all known or suspected matters that would disqualify it from participating in this bid or receiving any award or contract related to this bid, recognizing that the bidder's failure to identify and disclose any such matters constitutes its affirmation that no such matters exist, and that failure to disclose in this bid response any such matters which do exist is a material breach of contract which will void the submitted bid or any resulting contracts, and subject the bidder to removal from all bid lists, and possible criminal prosecution,
- j) the bidding entity has obtained, and will continue to maintain during the entire term of this contract, all permits, approvals, or licenses, necessary for lawful performance of its obligations under this contract,
- k) the prices, prompt payment discount terms, delivery terms, distribution allowances, and the quality and/or performance of the products offered in the bid response are and will remain the same or better than those offered to the vendor's most favored customer under equivalent circumstances,
- l) the bidding entity will comply with all laws relating to intellectual property, will not infringe on any third party's intellectual property rights, and will indemnify, defend, and hold the District and its locations harmless against any claims for infringement of any copyrights, patents, or other infringements related to its activities under this contract,
- m) the bid submitted complies with all federal, state, and local laws concerning these types of products or services, and the bidding entity will continue to comply with any applicable federal, state, and local laws related to the bidding entity's activities in connection with this contract,

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- n) the bidding entity will maintain, at the bidding entity's expense, any insurance necessary to protect the District and its locations from all claims for bodily injury, death, or property damage that might arise from the performance by the bidding entity or the bidding entity's employees or its agents of any service required of the bidding entity under this contract; however, the existence of such insurance will not relieve the bidding entity of full responsibility and liability for damages, injury, death, or loss as described or as otherwise provided for by law,
- o) neither the District nor any of its locations shall be liable to the bidder for any damages including, but not limited to, loss of profits or loss of business, or any special, consequential, exemplary, or incidental damages) in the event that the District declares the bidder in default,
- p) he/she understands that signing the bid with any false statement is a material breach of contract which will void the submitted bid or any resulting contracts, and subject the bidder to removal from all bid lists, and possible criminal prosecution.

Unless otherwise provided for in this Bid Invitation, any written notice or other communication required by this bid or by law will be conclusively deemed to have been given and received on the second business day after such written notice has been deposited in the U. S. Mail, properly addressed, and with sufficient postage affixed thereto, provided such notice shall not prevent the giving of actual notice in any other manner.

27. Equal Employment Opportunity (EEO) Disclosures:

By submission of a bid, the bidder agrees that in the performance of any contract resulting from any award under this bid, the bidding entity will comply with all applicable equal employment opportunity laws and regulations, including, but not limited to an agreement not to deny any benefit to, exclude from any opportunity, or discriminate in any way against, any applicant, employee, or any other person because of age, color, creed, gender, handicapping condition, marital status, national origin, political affiliation or belief, race, religion, or veteran status.

Bidder further agrees that the bidding entity is and, during the period of any contract resulting from any award under this Bid Invitation will remain, in compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41CFR Part 60).

The occurrence of any prohibited discrimination will constitute vendor's breach of contract due to a substantial failure by the vendor to fulfill its obligations, whereupon the District may terminate the vendor's contract for cause as provided by section #22 of this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination."